AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 83 Wednesday,
No. 100 May 23, 2018

Pages 23775–24000

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

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

Printed on recycled paper.

Contents

Federal Register

Vol. 83, No. 100

Wednesday, May 23, 2018

Agricultural Marketing Service
PROPOSED RULES
National Bio engineered Food Disclosures Standard, 23827

Agriculture Department
See Agricultural Marketing Service
See Food and Nutrition Service
See Forest Service

Army Department
NOTICES
Meetings:
Army Science Board, 23904–23905
Requests for Information:
Technologies to Support Operations in the Information Environment, 23903–23904

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23916–23917

Coast Guard
RULES
Safety Zones:
North Atlantic Ocean, Ocean City, MD, 23810–23812

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
PROPOSED RULES
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 23842–23847

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 23903

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23906–23907
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Administrative Matters, 23906
Construction and Architect-Engineer Contracts, 23905–23906
Defense Federal Acquisition Regulation Supplement; Earned Value Management System, 23905

Defense Department
See Army Department
See Defense Acquisition Regulations System
See Engineers Corps
See Navy Department
NOTICES
Charter Renewals:
Threat Reduction Advisory Committee, 23908
Manual for Courts-Martial, 23907–23908

Employment and Training Administration
NOTICES
Program Year 2018 Workforce Innovation and Opportunity Act Section 167, National Farmworker Jobs Program Proposed Modifications to Allotment Formula, 23937–23940

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Authority to Export Liquefied Natural Gas; Applications:
Freeport LNG Expansion, L.P. and FLNG Liquefaction 4, LLC, 23909–23911
Meetings:
Environmental Management Site-Specific Advisory Board, Hanford, 23909
Environmental Management Site-Specific Advisory Board, Oak Ridge, 23909

Engineers Corps
PROPOSED RULES
Restricted Areas and Danger Zones:
James River, Skiffes Creek and Warwick River surrounding Joint Base Langley-Eustis (JBLE-Eustis), VA, 23864–23866
Restricted Areas:
Little Creek Harbor, Fisherman's Cove, Joint Expeditionary Base Little Creek-Fort Story, Little Creek, VA, 23867–23869

Environmental Protection Agency
RULES
Pesticide Tolerances:
Clopyralid, 23819–23825

Federal Aviation Administration
RULES
Airworthiness Directives:
Agusta S.p.A. Helicopters, 23791–23794
Airbus Helicopters, 23778–23780
CFM International S.A. Turbofan Engines, 23794–23796
Diamond Aircraft Industries GmbH Airplanes, 23780–23788
Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, 23788–23791
The Boeing Company Airplanes, 23775–23778
Class D and E Airspace; Amendments:
Erie, PA, 23798–23799
Modification of VOR Federal Airway:
V–312; Northeast United States, 23796–23798
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:
Miscellaneous Amendments, 23799–23804
PROPOSED RULES
Airworthiness Directives:
AgustaWestland S.p.A. Helicopters, 23827–23829
Robinson Helicopter Company Helicopters, 23829–23831
Revocation of Class E Airspace:
St Marys, GA, 23831–23832
NOTICES
Airport Property Releases:
Greenwood County Airport, Greenwood, SC, 23992

Myrtle Beach International Airport, Myrtle Beach, SC, 23992–23993

Federal Energy Regulatory Commission
RULES
Withdrawal of Pleadings, 23807–23808
PROPOSED RULES
Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects, 23848–23854
Geomagnetic Disturbance Reliability Standard, 23854–23864
NOTICES
Combined Filings, 23913–23914
Complaints:
Monterey MA, LLC v. PJM Interconnection, LLC, 23912–23913
Designations of Commission Staff as Non-Decisional:
West Texas LPG Pipeline Limited Partnership; Wood River Pipe Lines LLC, 23911
Engineering Guidelines for the Evaluation of Hydropower Projects:
Chapter 12—Water Conveyance, 23911–23912
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Realgy, LLC, 23915
Late Intervention; Denials:
Renewable Energy Aggregators Inc., 23911
License Applications:
Sandy Hollow Power Co., Inc., 23914–23915
Petitions for Partial Waivers:
Minnkota Power Cooperative, Inc.; Northern Municipal Power Agency, 23914
Requests to Vacate Orders:
Athens Energy, LLC, 23915
Supplemental Filings:
Kipp, Mary E., 23912

Federal Highway Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23993–23994

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 23916
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 23915–23916

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 23916

Fish and Wildlife Service
RULES
Subsistence Management Regulations for Public Lands in Alaska:
Applicability and Scope; Tongass National Forest Submerged Lands, 23813–23819
PROPOSED RULES
Migratory Bird Hunting:
Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2018–19 Season, 23869–23883
NOTICES
Endangered Species Recovery Permit; Applications, 23928–23931

Food and Drug Administration
NOTICES
Guidance:
Enforcement Policy—Over-the-Counter Sunscreen Drug Products Marketed Without an Approved Application, 23917–23918
Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph, 23918–23920

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
School Breakfast Program, 23884–23885

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties, 23997–23998

Forest Service
RULES
Subsistence Management Regulations for Public Lands in Alaska:
Applicability and Scope; Tongass National Forest Submerged Lands, 23813–23819

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Challenge Competitions:
Improving Remote Monitoring of Pregnancy; etc.; Corrections, 23920–23921
Requests for Nominations:
National Advisory Council on the National Health Service Corps, 23921–23922
Single-Source Funding Awards:
Enhancement and Update of the National HIV Curriculum e-Learning Platform, 23920

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
NOTICES
Affirmatively Furthering Fair Housing:
Responsibility to Conduct Analysis of Impediments, 23927–23928
Withdrawal of Notice Extending the Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants, 23928
Withdrawal of the Assessment Tool for Local Governments, 23922–23927

Industry and Security Bureau
NOTICES
Reporting for Calendar Year 2017 on Offsets Agreements Related to Sales of Defense Articles or Defense Services to Foreign Countries or Foreign Firms, 23885

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23998–23999

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Circular Welded Non-Alloy Steel Pipe from Mexico, 23886–23888
Certain Cold-Rolled Steel Flat Products from the People's Republic of China, 23891–23894
Certain Corrosion-Resistant Steel Products from the People's Republic of China, 23895–23898
Polyethylene Retail Carrier Bags from Malaysia, 23894–23895
Raw Flexible Magnets from the People's Republic of China, 23890–23891
Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China, 23888–23890

International Trade Commission
NOTICES
Complaints:
Certain Human Milk Oligosaccharides and Methods of Producing the Same, 23935–23936
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Submarine Telecommunication Systems and Components Thereof, 23936–23937

Justice Department
NOTICES
Proposed Consent Decrees under CERCLA, 23937

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration

Land Management Bureau
NOTICES
Proposed Reinstatement of Terminated Oil and Gas Lease:
COC77678, Colorado, 23934
UTU89234, Utah, 23932–23933
WYW180625, Wyoming, 23932
WYW180627, Wyoming, 23934
Proposed Reinstatement of Terminated Oil and Gas Leases:
WYW177140, Wyoming, 23932
WYW184370, Wyoming, 23931
Realty Actions:
Direct Sale of Public Land in Gilpin County, CO, 23933–23934

Maritime Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application and Reporting Elements for Participation in the Maritime Security Program, 23995
Application for Construction Reserve Fund and Annual Statements, 23994–23995
Quarterly Readiness of Strategic Seaport Facilities Reporting, 23995–23996

Mine Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Diesel-Powered Equipment in Underground Coal Mines, 23944–23945
Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres, 23943–23944
Roof Control Plan for Underground Coal Mines, 23941
Petitions for Modifications of Application of Existing Mandatory Safety Standards, 23941–23943

National Archives and Records Administration
NOTICES
Records Schedules, 23945–23946

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Shrimp Fishery off Southern Atlantic States; Reopening of Penaeid Shrimp Fishery off Georgia, 23825–23826
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Portland Harbor Damage Assessment Plan, 23898–23899
Meetings:
Fisheries of the South Atlantic; South Atlantic Fishery Management Council, 23902–23903
North Pacific Fishery Management Council, 23902
Permanent Advisory Committee to Advise the U.S. Commissioners to the Western and Central Pacific Fisheries Commission, 23903
South Atlantic Fishery Management Council, 23899–23902

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23946–23947

Navy Department
RULES
Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972, 23809–23810

Pipeline and Hazardous Materials Safety Administration
NOTICES
Hazardous Materials:
Revisions to the Emergency Response Guidebook, 23996–23997

Postal Regulatory Commission
NOTICES
New Postal Products, 23947–23948

Postal Service
NOTICES
Product Changes:
Priority Mail Express, Priority Mail, and First-Class Package Service Negotiated Service Agreement, 23948

Securities and Exchange Commission
PROPOSED RULES
Form CRS Relationship Summary and Form ADV:
Required Disclosures in Retail Communications and Restrictions on the use of Certain Names or Titles, 23848
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 23978
Financial Industry Regulatory Authority, Inc., 23959–23963
Investors Exchange LLC, 23954–23956
Nasdaq GEMX, LLC, 23952–23954, 23964–23966
Nasdaq ISE, LLC, 23950–23952, 23966–23968
Nasdaq MRX, LLC, 23956–23959, 23981–23983
NYSE American LLC, 23948–23950
NYSE Arca, Inc., 23983–23985
NYSE National, Inc., 23968–23978
The Nasdaq Stock Market LLC, 23978–23981

Selective Service System
NOTICES
Forms Submitted to the Office of Management and Budget for Extension of Clearance, 23985–23986

Social Security Administration
NOTICES
Privacy Act; Matching Programs, 23986–23987

State Department
NOTICES
Charter Renewals:
Advisory Committee on International Law Charter, 23987–23988
Culturally Significant Objects Imported for Exhibition:
Faberge Rediscovered, 23989
Georg Baselitz—Six Decades, 23988
Thomas Bayrle—Playtime, 23988
Designations as Foreign Terrorist Organizations:
ISIS in the Greater Sahara, 23987
Designations as Global Terrorists:
Adnan Abu Walid al-Sahrawi, aka Abu Walid al Sahrawi, aka Adnan Abu Walid al-Sahraoui, aka Adnan Abu Waleed al-Sahrawi, aka Lehbib Ould Ali Ould Said Ould Joumani, 23988–23989
ISIS in the Greater Sahara, 23987
Determinations under the Arms Control Act, 23988

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs., 23934–23935

Surface Transportation Board
NOTICES
Acquisition Exemptions:
HGS–ATN, LLC; CSX Transportation, Inc., 23989–23990
HGS–FCR, LLC; CSX Transportation, Inc., 23991–23992
Continuance in Control Exemptions:
HGS Railway Holdings, Inc.; HGS–FCR, LLC and HGS–ATN, LLC, 23990–23991
Lease and Operation Exemptions:
Alabama and Tennessee River Railway, LLC; HGS–ATN, LLC, 23989
Fulton County Railway, LLC; HGS–FCR, LLC, 23991

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration
See Pipeline and Hazardous Materials Safety Administration
RULES
Nondiscrimination on the Basis of Disability in Air Travel, 23804–23807
PROPOSED RULES
Traveling by Air with Service Animals, 23832–23842

Treasury Department
See Foreign Assets Control Office
See Internal Revenue Service
See United States Mint

United States Mint
NOTICES
Requests for Nominations:
Citizens Coinage Advisory Committee, 23999

Veterans Affairs Department
NOTICES
Meetings:
Veterans and Community Oversight and Engagement Board, 23999–24000

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

Proposed Rules:

66 23827

14 CFR

39 (6 documents) 23775, 23778, 23780, 23788, 23791, 23794

71 (2 documents) 23796, 23798

97 (2 documents) 23799, 23802

382 23804

Proposed Rules:

39 (2 documents) 23827, 23829

71 23831

382 23832

17 CFR

Proposed Rules:

23 23842

240 23848

249 23848

275 23848

279 23848

18 CFR

385 23807

Proposed Rules:

8 23848

40 23854

141 23848

32 CFR

706 23809

33 CFR

165 23810

Proposed Rules:

334 (2 documents) 23864, 23867

36 CFR

242 23813

40 CFR

180 23819

50 CFR

100 23813

622 23825

Proposed Rules:

20 23869

Rules and Regulations

Federal Register
Vol. 83, No. 100
Wednesday, May 23, 2018

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0446; Product Identifier 2018–NM–069–AD; Amendment 39–19288; AD 2018–10–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD requires repetitive high frequency eddy current (HFEC) and detailed inspections, as applicable, for cracking of certain aft vertical stiffeners; repetitive detailed inspections for cracking of time-limited repairs, as applicable; a one-time HFEC inspection for cracking of the keel beam upper chord inboard flanges; a one-time general visual inspection for cracking of a certain angle; and applicable on-condition actions. This AD was prompted by a report of cracks in the left-side and right-side keel beam upper chords and aft vertical stiffeners. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 7, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 7, 2018.

We must receive comments on this AD by July 9, 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 referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0446.

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–2018–0446; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *Galib.Abumeri@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report indicating that cracks were discovered in the left-side and right-side keel beam upper chords and both aft vertical stiffeners on an airplane that had accumulated 1,304 flight cycles since the aft vertical stiffeners had been inspected in accordance with Boeing Service Bulletin 737–57A1269. The Boeing Company has done an analysis of the affected structure and found that the actual stresses on aft vertical stiffeners at left buttock line (LBL) and right buttock line (RBL) 6.15 are more than those used to design the structure. The increased stresses cause fatigue cracks in the stiffeners. If the aft vertical stiffeners have cracks or are severed, the fatigue damage may extend into the adjacent keel beam structure. The Boeing Company has determined that the existing inspections in Boeing Service Bulletin 737–57A1269, required by AD 2005–20–01, Amendment 39–14294 (70 FR 56358, September 27, 2005) (''AD 2005–20–01''), do not provide sufficient inspection intervals for timely crack detection in the aft vertical stiffeners. Cracking of the aft vertical stiffeners, if not addressed, could result in the inability of the keel beam structure to sustain required flight loads, which could adversely affect the structural integrity of the airplane.

We have determined that both AD 2005–20–01 and this AD must be done in order to address the identified unsafe condition. Boeing plans to issue a revision to Service Bulletin 737–57A1269 in the near future and at that time we may consider superseding AD 2005–20–01.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018. The service information describes procedures for repetitive surface HFEC and detailed inspections for cracking of the aft vertical stiffeners; repetitive detailed inspections for cracking of time-limited repairs; a one-time surface HFEC inspection for cracking of the keel beam upper chord inboard flanges and a general visual inspection for cracking of the associated angle; 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

This AD requires accomplishing the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, described previously, except for any differences identified as exceptions in the regulatory text of this AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0446.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins. In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Interim Action

We consider this AD interim action. We are currently considering requiring the replacement of the vertical stiffeners on certain airplanes, which would constitute terminating action for certain inspections required by this AD action. The planned compliance time for replacing the vertical stiffeners would allow enough time to provide notice and opportunity for prior public comment on the merits of the modification.

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 comments 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 keel beam upper chords could result in the inability of the keel beam structure to sustain required flight loads, which could adversely affect the structural integrity of the airplane. 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–2018–0446 and Product Identifier 2018–NM–069–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 67 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
Surface HFEC and detailed inspections of aft vertical stiffeners (for Configuration 1 airplanes).	2 work-hours × $85 per hour = $170 per inspection cycle.	$0	$170 per inspection cycle	Up to $11,390 per inspection cycle.
Detailed inspection of aft vertical stiffeners and time-limited repair (for Configuration 2 airplanes).	2 work-hours × $85 per hour = $170.	0	$170 per inspection cycle	Up to $11,390 per inspection cycle.
Surface HFEC inspection of the keel beam upper chord inboard flanges and a general visual inspection of the angle (for all airplanes).	2 work-hours × $85 per hour = $170.	0	$170	$11,390.

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 and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–10–12 The Boeing Company: Amendment 39–19288; Docket No. FAA–2018–0446; Product Identifier 2018–NM–069–AD.

(a) Effective Date

This AD is effective June 7, 2018.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings; 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracks in the left-side and right-side keel beam upper chords and aft vertical stiffeners. Cracks in the aft vertical stiffeners may lead to the inability of the keel beam structure to sustain required flight loads, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Required Actions for Group 2 Airplanes

Except as required by paragraph (i) of this AD: For airplanes identified as Group 2 in Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018.

Note 1 to paragraph (h) of this AD: Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–57A1339, dated April 16, 2018, which is referred to in Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018.

(i) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, uses the phrase ''the original issue date of Requirements Bulletin 737–57A1339 RB,'' this AD requires using the effective date of this AD.

(2) Where Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, specifies contacting Boeing, this AD requires repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Optional Terminating Action for Repetitive Inspections

Removal of the time-limited repair and accomplishment of additional actions in accordance with the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, terminate the repetitive inspections of the aft vertical stiffeners and time-limited repair, as specified in the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1339 RB, dated April 16, 2018, and required by paragraph (h) of this AD.

(k) 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 (l)(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.

(l) Related Information

(1) For more information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *Galib.Abumeri@faa.gov.*

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

(m) 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 Requirements Bulletin 737–57A1339 RB, dated April 16, 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 the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records

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

Issued in Des Moines, Washington, on May 11, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10920 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3883; Product Identifier 2014–SW–029–AD; Amendment 39–19289; AD 2018–11–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model AS332L2 and EC225LP helicopters. This AD requires installing a cut-out for the left-hand (LH) and right-hand (RH) rail support junction profiles and inspecting splices, frame 5295, and related equipment for a crack. This AD was prompted by reports of cracks on frame 5295 and on splices installed to prevent those cracks. The actions of this AD are intended to prevent an unsafe condition on these products.

DATES: This AD is effective June 27, 2018.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of June 27, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, Inc., 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3883.

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–2015–3883; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations & Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On January 5, 2016, at 81 FR 191, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Model AS332L2 and Model EC225LP helicopters with an extended aluminum splice installed on frame 5295. The NPRM proposed to require installing a cut-out for the LH and RH rail support junction profiles and inspecting splices, frame 5295, and related equipment for a crack. The proposed requirements were intended to detect a crack in frame 5295, which could lead to structural failure of the frame and loss of control of the helicopter.

The NPRM was prompted by AD No. 2014–0098–E, dated April 25, 2014, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Model AS332L2 and EC225LP helicopters. EASA AD No. 2014–0098–E applies to helicopters with a frame 5295 that have been reinforced by installing aluminium splices on the RH and LH fuselage external skins. EASA advises of a report of a crack that initiated on a splice in an area hidden by the overlapping junction profile of the cabin sliding door rail support and then spread to the frame.

EASA states that a crack in frame 5295, if not detected and corrected, could lead to loss of structural integrity of the helicopter frame and subsequent loss of control of the helicopter. To address this condition, EASA issued AD No. 2014–0098–E to require repetitive inspections of the splices for a crack, as well as cutting out the rail support junction profiles to provide a convenient access to identify cracks in a splice.

Since the NPRM was issued, the FAA's Aircraft Certification Service has changed its organizational structure. The new structure replaces product directorates with functional divisions. We have revised some of the office titles and nomenclature throughout this Final rule to reflect the new organizational changes. Additional information about the new structure can be found in the Notice published on July 25, 2017 (82 FR 34564).

Comments

After our NPRM was published, we received comments from a commenter who raised three issues.

Request

The commenter requested that we revise the applicability of the AD to exempt helicopters that are ''post mod 07 26493 or RDAS 332–1284–13.''

We partially agree. Modification (MOD) 0726493 or repair design approval sheet (RDAS) 332–1284–13 specify installing a stainless steel doubler to reduce stress in the splice and frame, thereby eliminating the unsafe condition. We disagree with exempting ''post mod'' helicopters, however, as the stainless steel doubler could be removed (subjecting the helicopter again to the unsafe condition) and the helicopter would still be in a ''post mod'' configuration. Instead, we have changed the applicability to exempt helicopters with the steel splice kit installed that pertains to MOD 0726493.

The commenter requested that we revise the compliance time of the AD to include the flow charts from the Airbus Helicopters service information. The commenter states that this information would explain the steps involved to operators to eliminate the unsafe condition. The commenter also requested that we clarify the compliance times as discussed in the preamble of the NPRM, because they appear different from those in the service information and the EASA AD.

We disagree. The commenter is correct that the compliance times in our AD are different, in some measure, to those in the EASA AD. But the compliance times in the AD are clear as written. The requested change is unnecessary.

The commenter requested that we withdraw the AD because all helicopters in the U.S. fleet have either installed the cut-out or are scheduled for installation of the cut-out.

We disagree. The FAA has determined that an unsafe condition exists. AD action is required to mandate corrective action for this unsafe condition. In addition, if additional helicopters are imported into the United States, AD action is necessary to require that those helicopters accomplish the corrective actions before operating in this country.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA, reviewed the relevant information, considered the comments received, and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed with the change described previously and with a revision to the estimated costs of complying with this AD. These changes are consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of the AD.

Differences Between This AD and the EASA AD

The EASA AD requires contacting Airbus Helicopters if there is a crack in the affected parts. This AD makes no such requirement.

The EASA AD sets various timelines for repairing affected parts if a crack exists. This AD requires repairing affected parts before further flight if a crack exists.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. EC225–05A038 for Model EC225LP helicopters and ASB No. AS332–05.00.97 for Model AS332L2 helicopters. The ASBs, both Revision 0 and both dated April 15, 2014, report cracks were found in the splice and frame 5295 on a Model AS332L2 helicopter during a major inspection. The splice had been added in compliance with MOD 0726517. Had an optional rail support cut-out been accomplished on the aircraft to allow for a visual check of the splice for frame 5295, it would have revealed the crack in the splice, prompting its repair and consequently limiting the damage to frame 5295. As a result, the ASBs call for the rail support cut-out on the RH and LH side of the frame as well as periodic visual inspections of frame 5295 and related equipment.

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.

Other Related Service Information

We reviewed Eurocopter Helicopters (now Airbus Helicopters) Service Bulletin (SB) No. 53–003, Revision 4, for Model EC225LP helicopters and SB No. 53.01.52, Revision 5, for Model AS332L2 helicopters, both dated July 23, 2010. The SBs specify procedures to reinforce frame 5295 by installing a new titanium plate underneath the fitting and a new widened aluminum splice below the upper corner of the door. We also reviewed Airbus Helicopters SB No. 05–019, Revision 4, dated September 22, 2014, for Model EC225LP helicopters, which proposes that you cut out the junction profiles to perform periodic visual inspections.

Costs of Compliance

We estimate that this AD affects 4 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

Installing the cut-outs on frame 5295 requires 40 work-hours for a labor cost of $3,400. Parts cost $5,000 for total cost per helicopter of $8,400 and $33,600 for the U.S. fleet.

Inspecting helicopter frame 5295 requires 2 work-hours for a labor cost of $170 per helicopter. No parts are needed for a total U.S. fleet cost of $680 per inspection cycle.

Repairing a splice requires 40 work-hours and a parts cost of $5,000 for a total cost of $8,400 per helicopter.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–11–01 Airbus Helicopters: Amendment 39–19289; Docket No. FAA–2015–3883; Product Identifier 2014–SW–029–AD.

(a) Applicability

This AD applies to Model AS332L2 and Model EC225LP helicopters, certificated in any category, with an extended aluminum splice installed on frame 5295, except helicopters with steel splice kit part number 332A08–2649–3072 installed.

Note 1 to paragraph (a) of this AD: Helicopters with Modification (MOD) 0726517 have an extended aluminum splice installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack on helicopter frame 5295. This condition could result in structural failure of the frame and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective June 27, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Before a splice reaches 1,700 hours time-in-service (TIS), within 50 hours TIS, or before the helicopter reaches 11,950 hours TIS, whichever occurs later, do the following:

(i) Install the rail support cut-out and identify the right-hand and left-hand junction profile in accordance with the Accomplishment Instructions, paragraph 3.B.2, of Airbus Helicopters Alert Service Bulletin (ASB) No. EC225–05A038, Revision 0, dated April 15, 2014 (ASB EC225–05A038), or ASB No. AS332–05.00.97, Revision 0, dated April 15, 2014 (ASB AS332–05.00.97), whichever is applicable to your helicopter.

(ii) Inspect each splice for a crack in the area depicted as Area Y in Figure 3 of ASB EC225–05A038 or ASB AS332–05.00.97, whichever is applicable to your helicopter. If a crack exists, repair or replace the splice before further flight.

(2) Thereafter at intervals not to exceed 110 hours TIS, inspect each splice for a crack in the area depicted as Area Y in Figure 3 of ASB EC225–05A038 or ASB AS332–05.00.97. If a crack exists, repair or replace the splice before further flight.

(f) Credit for Actions Previously Completed

Installing rail support cut-outs in accordance with MOD 0728090 or Airbus Helicopters Service Bulletin No. 05–019, Revision 4, dated September 22, 2014, before the effective date of this AD is considered acceptable for compliance with the corresponding actions specified in paragraph (e)(1)(i) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations & Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Airbus Helicopters Service Bulletin (SB) No. 05–019, Revision 4, dated September 22, 2014, and Eurocopter Helicopters (now Airbus Helicopters) SB No. 53–003, Revision 4, and SB No. 53.01.52, Revision 5, both dated July 23, 2010, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2014–0098–E, dated April 25, 2014. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2015–3883.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5310, Fuselage Main, Structure.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Airbus Helicopters Alert Service Bulletin No. EC225–05A038, Revision 0, dated April 15, 2014.

(ii) Airbus Helicopters Alert Service Bulletin No. AS332–05.00.97, Revision 0, dated April 15, 2014.

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on May 16, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–10921 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0188; Product Identifier 2018–CE–002–AD; Amendment 39–19285; AD 2018–10–10]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–01–12, AD 2017–11–08, and AD 2017–15–09 for certain Diamond Aircraft Industries GmbH Model DA 42 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as uncommanded engine shutdown during flight due to failure of the propeller-regulating valve caused by hot exhaust gases coming from fractured engine exhaust pipes. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 12, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 12, 2018.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of May 31, 2017 (82 FR 24843, May 31, 2017) and August 1, 2017 (82 FR 35630, August 1, 2017).

We must receive comments on this AD by July 9, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straβe 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* internet: *http://www.diamondaircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Standards Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0188.

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–2018–0188; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued AD 2017–01–12, Amendment 39–18779 (82 FR 5359, January 18, 2017) (''AD 2017–01–12''); AD 2017–11–08, Amendment 39–18907 (82 FR 24843, May 31, 2017) (''AD 2017–11–08''), and AD 2017–15–09, Amendment 39–18969 (82 FR 35630, August 1, 2017) (''AD 2017–15–09''). Those ADs required actions intended to address an unsafe condition on certain Diamond Aircraft Industries GmbH Model DA 42 airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2017–01–12, AD 2017–11–08, and AD 2017–15–09, the European Aviation Safety Agency (EASA) has issued a new AD.

The EASA, which is the Technical Agent for the Member States of the European Community, has issued AD No. 2017–0254, dated December 21, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Two cases were reported of uncommanded engine in-flight shutdown (IFSD) on DA 42 aeroplanes. Subsequent investigation identified that these occurrences were due to failure of the propeller regulating valve, caused by hot exhaust gases coming from fractured engine exhaust pipes. The initiating cracks on the exhaust pipes were not detected during previous inspections, since those exhaust pipes are equipped with non-removable heat shields that do not allow inspection for certain sections of the exhaust pipe.
>
> This condition, if not corrected, could lead to further cases of IFSD or overheat damage, possibly resulting in a forced landing, with consequent damage to the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, Diamond Aircraft Industries (DAI) developed an exhaust pipe without a directly attached integral heat shield that allows visual inspection over the entire exhaust pipe length. DAI issued Mandatory Service Bulletin (MSB) 42–120 and relevant Working Instruction (WI) WI–MSB 42–120, providing instructions to install the modified exhaust pipes. As an interim measure, an additional bracket was designed to hold the exhaust pipe in place in case of a pipe fracture. EASA issued AD 2016–0156 (later revised), requiring replacement of the exhaust pipes with pipes having the new design, or installation of the additional brackets.
>
> After EASA AD 2016–0156R1 was issued, cracks were found during inspection on modified exhaust pipes. Further investigation determined that, with the modified exhaust pipe design, vibration leads to cracking. Consequently, DAI published MSB 42–129, providing instructions for inspection of modified exhaust pipes, and EASA issued AD 2017–0090, retaining the requirements of EASA AD 2016–0156R1, which was superseded, and additionally requiring repetitive inspections of modified exhaust pipes and, depending on findings, repair or replacement.
>
> After EASA AD 2017–0090 was issued, cracks were found on additional brackets, as previously installed per DAI WI–MSB 42–120. Prompted by these findings, DAI revised MSB 42–120 and the relevant part of WI–MSB 42–120 (now at Revision 4), providing improved instructions for the installation of brackets, and additional instructions to inspect those brackets. Consequently, EASA issued AD 2017–0120, retaining the requirements of EASA AD 2017–0090, which was superseded, and additionally requiring those actions for the additional brackets. That [EASA] AD also required reinstallation of the additional brackets in accordance with improved instructions.
>
> Since EASA AD 2017–0120 was issued, it has been determined that installation of additional exhaust pipe brackets, combined with additional inspections, is the most adequate solution to address the original unsafe condition, while it was also established that the modified exhaust pipes without directly attached heat shield are not adequate as replacement parts. Durability analysis of the design is still under investigation and further improvements in the exhaust design are expected.
>
> For the reasons described above, this [EASA] AD partially retains the requirements of EASA AD 2017–0120, which is superseded, removing the option to install a modified exhaust pipe without direct heat shield, and adding inspection requirements for aeroplanes modified in accordance with Section III.2 of DAI WI–MSB 42–120 Revision 3 or later (installation of additional brackets), and for aeroplanes on which an exhaust pipe with directly attached heat shield was re-installed in accordance with DAI OSB 42–131.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0188.

Relative Service Information Under 1 CFR Part 51

Diamond Aircraft Industries GmbH (DAI) has issued Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2018, Mandatory Service Bulletin MSB–42–129, dated May 17, 2017, and Work Instruction WI–OSB 42–131, dated December 20, 2017. DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, and Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2018, have identical procedures for installing additional engine exhaust pipe clamps with spring washers on original engine exhaust pipes. DAI Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2018, also includes procedures for inspecting the original engine exhaust pipe for cracks. DAI Mandatory Service Bulletin MSB–42–129, dated May 17, 2017, describes procedures for inspecting the modified engine exhaust pipe for cracks. DAI Work Instruction WI–OSB 42–131, dated December 20, 2017, describes procedures for replacing either the original or the modified engine exhaust pipe if cracks are found. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because affected engine exhaust pipes could crack and cause hot gases to leak from fractured exhaust pipes and lead to an uncommanded engine in-flight shutdown. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0188; Directorate Identifier 2018–CE–002–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 130 products 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
Inspect engine exhaust pipe	2 work-hours × $85 = $170	N/A	$170	$22,100
Install additional engine exhaust pipe clamps with spring washers.	4 work-hours × $85 per hour = $340 (for both clamps).	$100 (for both clamps).	440	57,300
Inspect engine exhaust pipe clamps	2 work-hours × $85 per hour = $170	N/A	170	22,100

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspections. We have no way of determining the number of airplanes that may need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace cracked engine exhaust pipe	4 work-hours × $85 per hour = $340	$1,900	
Replace cracked engine exhaust pipe clamps	4 work-hours × $85 per hour = $340 (for both clamps).	$100 (for both clamps)	$440

We estimate that 20 of the affected airplanes have the ''modified exhaust pipes,'' Diamond Aircraft Industries P/N D60–9078–06–01_01 or Technify P/N 52–7810–H0014 01, installed that may be subject to replacement by this AD and 110 of the affected airplanes are subject to the initial installation of additional engine exhaust pipe clamps and spring washers, inspections, and the conditional replacement requirement of 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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–18779 (82 FR 5359, January 18, 2017), Amendment 39–18907 (82 FR 24843, May 31, 2017), and Amendment 39–18969 (82 FR 35630, August 1, 2017) and adding the following new AD:

2018–10–10 Diamond Aircraft Industries GmbH: Amendment 39–19285; Docket No. FAA–2018–0188; Directorate Identifier 2018–CE–002–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 12, 2018.

(b) Affected ADs

This AD replaces 2017–01–12, Amendment 39–18779 (82 FR 5359, January 18, 2017) (''AD 2017–01–12''); AD 2017–11–08, Amendment 39–18907 (82 FR 24843, May 31, 2017) (''AD 2017–11–08''), and AD 2017–15–09, Amendment 39–18969 (82 FR 35630, August 1, 2017) (''AD 2017–15–09'').

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Model DA 42 airplanes, serial numbers 42.004 through 42.427 and 42.AC001 through 42.AC151, certificated in any category, that have either a TAE 125–02–99 or TAE 125–02–114 engine installed, and:

(1) are equipped with an original engine exhaust pipe, Diamond Aircraft Industries (DAI) part number (P/N) D60–9078–06–01 or Technify P/Ns 52–7810–H0001 02, 52–7810–H0001 03, 52–7810–H0001 04; or

(2) are equipped with a modified engine exhaust pipe DAI P/N D60–9078–06–01_01 or Technify 52–7810–H0014 01.

(d) Subject

Air Transport Association of America (ATA) Code 78: Engine Exhaust.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and address an unsafe condition on an aviation product. It has been determined that installation of additional exhaust pipe brackets, combined with additional inspections, is the most adequate solution to address the original unsafe condition, while it was also established that the modified exhaust pipes without directly attached heat shield are not adequate as replacement parts. Durability analysis of the design is still under investigation and further improvements in the exhaust design are expected. For these reasons, this AD removes the option to install a modified exhaust pipe without direct heat shield, adds inspection requirements for airplanes modified in accordance with Section III.2 of Diamond Aircraft Industries (DAI) WI–MSB 42–120 Revision 3, dated July 6, 2017 (installation of additional brackets), and for airplanes on which an exhaust pipe with directly attached heat shield was re-installed in accordance with DAI Work Instruction WI–OSB 42–131, dated December 20, 2017. The MCAI describes the unsafe condition as uncommanded engine shutdown during flight due to failure of the propeller regulating valve caused by hot exhaust gases coming from fractured engine exhaust pipes. We are issuing this AD to prevent failure of the propeller regulating valve, which could result in forced landing, consequent damage and occupant injury.

(f) Compliance

Unless already done, do the following actions.

(1) An airplane is only required to have the actions of either (g) or (h) of this AD accomplished depending on the configuration.

(2) For the purpose of this AD, if the flight hours accumulated since first installation of an affected exhaust pipe or additional exhaust pipe clamp is not known, use the total hours time-in-service (TIS) accumulated on the airplane.

(g) Actions for Airplanes With Installed Original Engine Exhaust Pipes as of June 12, 2018 (the Effective Date of This AD)

See Appendix 1 to AD 2018–10–10 for a chart of required actions. An original engine exhaust pipe is defined in paragraph (c), Applicability, of this AD.

(1) At the applicable compliance time in paragraphs (g)(1)(i) and (ii) of this AD, and repetitively thereafter at intervals not to exceed 500 hours time-in-service (TIS), inspect the installed engine exhaust pipe. Do this inspection following section III.4—Inspection of exhaust pipe in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2017.

(i) *If the engine exhaust pipe has 1,300 hours TIS or less since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Before or upon accumulating 1,500 hours TIS since the engine exhaust pipe was first installed on an airplane, and repetitively thereafter at intervals not to exceed 500 hours TIS.

(ii) *If the engine exhaust pipe has more than 1,300 hours TIS since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Within the next 200 hours TIS after June 12, 2018 (the effective date of this AD), and repetitively thereafter at intervals not to exceed 500 hours time-in-service (TIS).

(2) During any inspection required in paragraph (g)(1) of this AD, if the engine exhaust pipe does not pass the inspection criteria, before further flight replace the engine exhaust pipe following section III.1—Re-installation of Exhaust Pipes with Directly Attached Heat Shield in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017 (which includes installing additional engine exhaust pipe clamps, an exhaust sheet, and incorporates spring washers). After replacement continue with the 500-hour TIS repetitive inspections.

(i) If only the engine exhaust pipe heat shield is loose, a one-time single weld is allowed following section III.3—Repair of Heat Shields of DAI P/N D60–9078–06–01/Technify P/Ns 52–7810–H0001 03 and 52–7810–H0001 04 in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017. After a repair of the heat shield, if a single weld point is subsequently found cracked, the heat shield is considered to be loose and the exhaust pipe must be replaced. After replacement or repair, continue with the 500-hour TIS repetitive inspections.

(ii) Engine exhaust pipes re-qualified following section III.2—Re-Qualification of Exhaust Pipes DAI P/N D60–9078–06–01/Technify P/Ns 52–7810–H0001 02, 52–7810–H0001 03, or 52–7810–H0001 04 in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017, are considered to have accumulated 1,500 hours TIS.

(3) Before further flight after the initial inspection required in paragraph (g)(1) of this AD and if no cracks were found or a repair to the exhaust pipe heat shield was done as required in paragraph (g)(2)(i) of this AD, then install additional engine exhaust pipe clamps, DAI P/Ns D60–7806–00–01 and D60–7806–00–02, and exhaust sheet, P/N D60–7806–00–03, and incorporate spring washers. Do the installations following III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017. See figure 1 to paragraph (g)(3) of this AD for additional information on the sequence of installation actions as identified in DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017 and Revision 4, dated December 20, 2017.

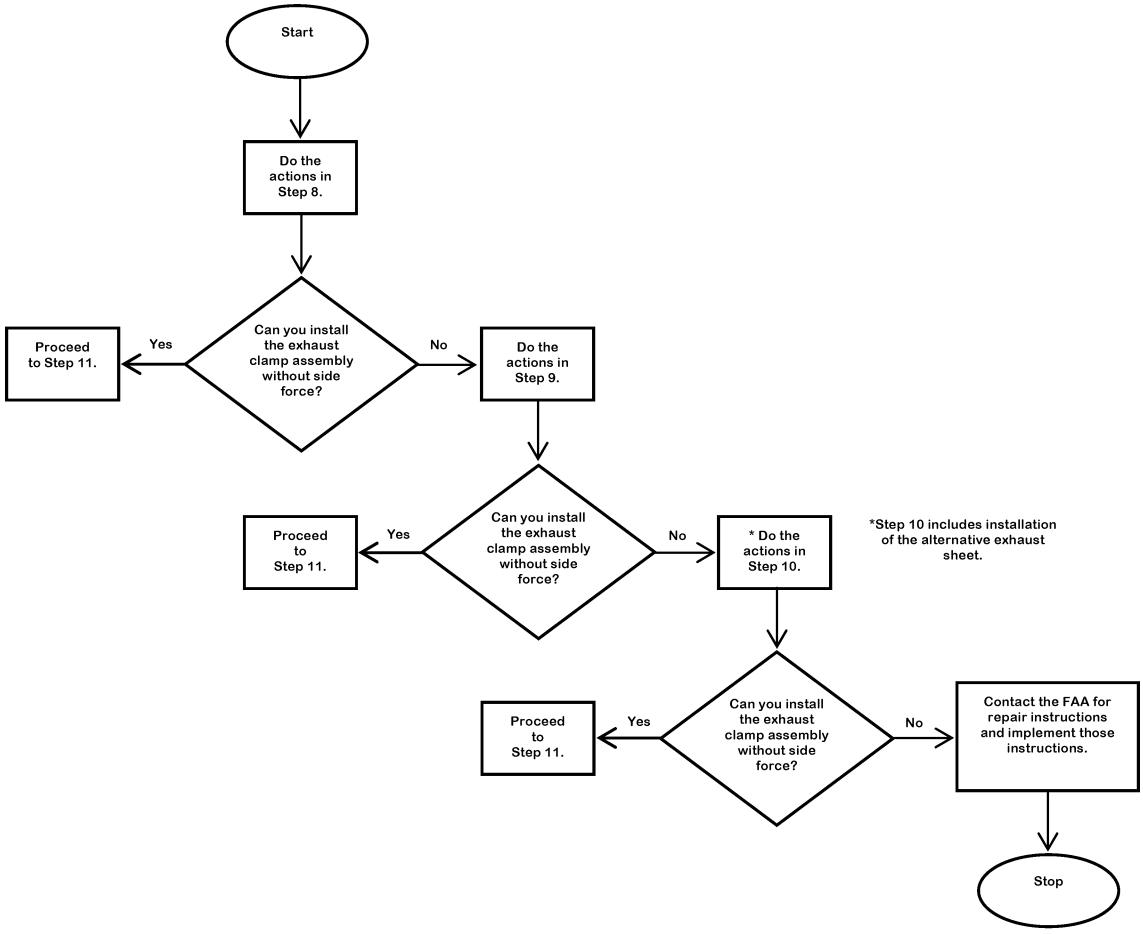


Figure 1 to paragraph (g)(3) of this AD:
Sequence of Actions for Exhaust Clamp Installation Identified in
DAI Work Instruction WI-MSB 42-120, Revision 3, dated July 6, 2017, and
Revision 4, dated December 20, 2017

(4) During any engine exhaust pipe clamp and exhaust sheet with spring washer installation/replacement required in paragraphs (g)(2), (3), (6), and (7) of this AD, if the exhaust clamp assembly cannot be installed without side force using step 10 of III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017, before further flight contact the FAA at the address specified in paragraph (i) of this AD to obtain and incorporate an FAA-approved repair/modification approved specifically for this AD. The FAA will coordinate with the European Aviation Safety Agency (EASA) and DAI for the development of a repair/modification to address the specific problem.

(5) At the applicable compliance time in paragraphs (g)(5)(i) and (ii) of this AD and repetitively thereafter at intervals not to exceed 25 hours TIS, remove and inspect each engine exhaust clamp for cracks. Do this inspection following III.3 Action 3—Inspection of exhaust clamp for cracks of the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017.

(i) *If the engine exhaust pipe clamp has less than 40 hours TIS since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Before or upon accumulating 50 hours TIS since the engine exhaust pipe clamp was first installed on an airplane.

(ii) *If the engine exhaust pipe clamp has 40 hours TIS or more since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Within the next 10 hours TIS after June 12, 2018 (the effective date of this AD).

(6) Before further flight after any inspection required in paragraph (g)(5) of this AD and no crack is found, reinstall the engine exhaust pipe clamp, and incorporate spring washers following III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017. See figure 1 to paragraph (g)(3) of this AD for additional information on the sequence of installation actions as identified in DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, and or Revision 4, dated December 20, 2017. Continue with the 25-hour TIS repetitive inspection as long as no cracks are found.

(7) Before further flight after any inspection required in paragraph (g)(5) of this AD and a cracked engine exhaust pipe clamp is found, replace the cracked engine exhaust pipe clamp with a new engine exhaust pipe clamp and incorporate spring washers following the service instructions specified in paragraph (g)(6) of this AD. All newly installed engine exhaust pipe clamps are subject to an initial 50-hour TIS and repetitive 25-hour TIS inspections for cracks following the service instructions specified in paragraph (g)(5) of this AD.

(h) Actions for Airplanes With Installed Modified Engine Exhaust Pipes as of June 12, 2018 (the Effective Date of This AD)

See Appendix 2 to AD 2018–10–10 for a chart of required actions. A modified engine exhaust pipe is defined in paragraph (c), Applicability, of this AD.

(1) At the applicable compliance time in paragraphs (h)(1)(i) and (ii) of this AD and repetitively thereafter at intervals not to

exceed 50 hours TIS, inspect each engine exhaust pipe for cracks. Do this inspection following I.9 Accomplishment/Instructions in DAI Mandatory Service Bulletin MSB–42–129, dated May 17, 2017.

(i) *If the engine exhaust pipe has less than 40 hours TIS since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Before or upon accumulating 50 hours TIS since the affected engine exhaust pipe was first installed on an airplane, repetitively thereafter inspect at intervals not to exceed 50 hours TIS.

(ii) I*f the engine exhaust pipe has 40 hours TIS or more since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Within the next 10 hours TIS after June 12, 2018 (the effective date of this AD), repetitively thereafter inspect at intervals not to exceed 50 hours TIS.

(2) If a crack is found during any inspection required by paragraph (h)(1) of this AD, before further flight replace the engine exhaust pipe with an engine exhaust pipe, DAI P/N D60–9078–06–01 or Technify P/Ns 52–7810–H0001 02, 52–7810–H0001 03, or 52–7810–H0001 04. Do the replacement following section III.1—Re-installation of Exhaust Pipes with Directly Attached Heat Shield in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017, which includes installing additional engine exhaust pipe clamps, an exhaust sheet, and incorporates spring washers.

(3) After installing an engine exhaust pipe, DAI P/N D60–9078–06–01 or Technify P/Ns 52–7810–H0001 02, 52–7810–H0001 03, or 52–7810–H0001 04 (which includes installing additional engine exhaust pipe clamps, an exhaust sheet, and incorporates spring washers), repetitively thereafter inspect at intervals not to exceed 500 hours TIS. Do this inspection following section III.4—Inspection of exhaust pipe in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2017.

(4) During any inspection required in paragraph (h)(3) of this AD, if the engine exhaust pipe does not pass the inspection criteria, before further flight replace the engine exhaust pipe following section III.1—Re-installation of Exhaust Pipes with Directly Attached Heat Shield in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017 (which includes installing additional engine exhaust pipe clamps, an exhaust sheet, and incorporates spring washers). After replacement, continue with the 500-hour TIS repetitive inspections.

(i) If only the engine exhaust pipe heat shield is loose, a one-time single weld is allowed following section III.3—Repair of Heat Shields of DAI P/N D60–9078–06–01/ Technify P/Ns 52–7810–H0001 03 and 52–7810–H0001 04 in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017. After a repair of the heat shield, if a single weld point is subsequently found cracked, the heat shield is considered to be loose and the exhaust pipe must be replaced. After replacement or repair, continue with the 500-hour TIS repetitive inspections.

(ii) Engine exhaust pipes re-qualified following section III.2—Re-Qualification of Exhaust Pipes DAI P/N D60–9078–06–01/ Technify P/Ns 52–7810–H0001 02, 52–7810–H0001 03, or 52–7810–H0001 04 in the INSTRUCTIONS section of DAI Work Instruction WI–OSB 42–131, dated December 20, 2017, are considered to have accumulated 1,500 hours TIS.

(5) During any engine exhaust pipe clamp, exhaust sheet with spring washer installation/replacement required in paragraphs (h)(2), (4), (7), and (8) of this AD, if the exhaust clamp assembly cannot be installed without side force using step 10 of III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017, before further flight contact the FAA at the address specified in paragraph (i) of this AD to obtain and incorporate an FAA-approved repair/ modification approved specifically for this AD. The FAA will coordinate with the European Aviation Safety Agency (EASA) and DAI for the development of a repair/ modification to address the specific problem.

(6) At the applicable compliance time in paragraphs (h)(6)(i) and (ii) of this AD and repetitively thereafter at intervals not to exceed 25 hours TIS, remove and inspect each engine exhaust clamp for cracks. Do this inspection following III.3 Action 3—Inspection of exhaust clamp for cracks of the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017.

(i) *If the engine exhaust pipe clamp has less than 40 hours TIS since first installed on an airplane as of June 12, 2018 (the effective date of this AD):* Before or upon accumulating 50 hours TIS since the engine exhaust pipe clamp was first installed on an airplane.

(ii) *If the engine exhaust pipe clamp has 40 hours TIS or more since first installed on an airplane as of June 12, 2018*

(the effective date of this AD): Within the next 10 hours TIS after June 12, 2018 (the effective date of this AD).

(7) Before further flight after any inspection required in paragraph (h)(6) of this AD and no crack is found, reinstall the engine exhaust pipe clamp and incorporate spring washers following III.2 Action 2—installation of additional exhaust clamp in the INSTRUCTIONS section of DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, or Revision 4, dated December 20, 2017. See figure 2 to paragraph (g)(7) of this AD for additional information on the sequence of installation actions as identified in DAI Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017, and or Revision 4, dated December 20, 2017. Continue with the 25-hour TIS repetitive inspection as long as no cracks are found.

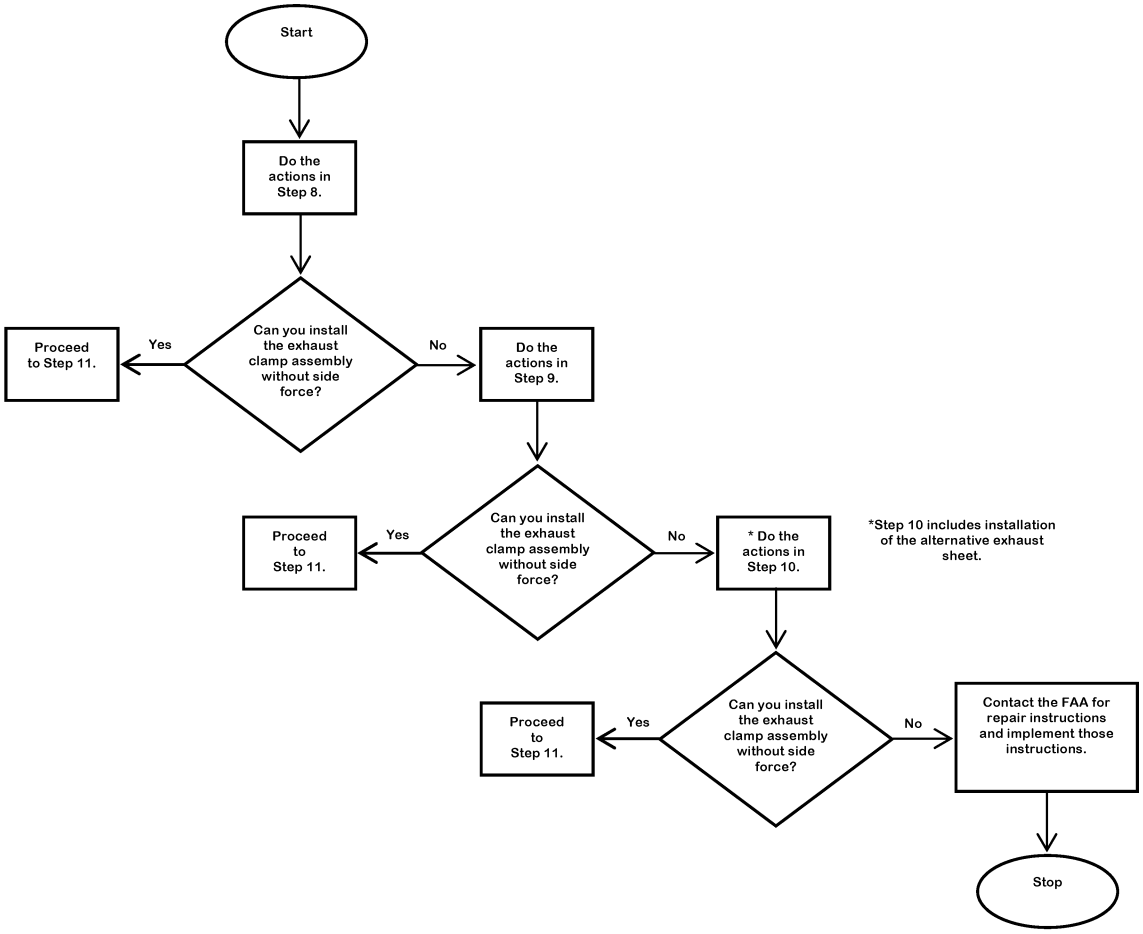


Figure 2 to paragraph (h)(7) of this AD: Sequence of Actions for Exhaust Clamp Installation Identified in DAI Work Instruction WI-MSB 42-120, Revision 3, dated July 6, 2017, and Revision 4, dated December 20, 2017

(8) Before further flight after any inspection required in paragraph (h)(6) of this AD and a cracked engine exhaust pipe clamp is found, replace the cracked engine exhaust pipe clamp with a new engine exhaust pipe clamp and incorporate spring washers following the service instructions specified in paragraph (h)(7) of this AD. All newly installed engine exhaust pipe clamps are subject to an initial 50-hour TIS and repetitive 25-hour TIS inspections for cracks following the service instructions specified in paragraph (h)() of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(j) Related Information

Refer to MCAI EASA AD No. 2017–0254, dated December 21, 2017, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0188.

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 12, 2018.

(i) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–120, Revision 4, dated December 20, 2017.

(ii) Diamond Aircraft Industries GmbH Work Instruction WI–OSB 42–131, dated December 20, 2017.

(4) The following service information was approved for IBR on May 31, 2017 (82 FR 24843, May 31, 2017).

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB–42–129, dated May 17, 2017.

(ii) Reserved.

(5) The following service information was approved for IBR on August 1, 2017 (82 FR 35630, August 1, 2017).

(i) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–120, Revision 3, dated July 6, 2017.

(ii) Reserved.

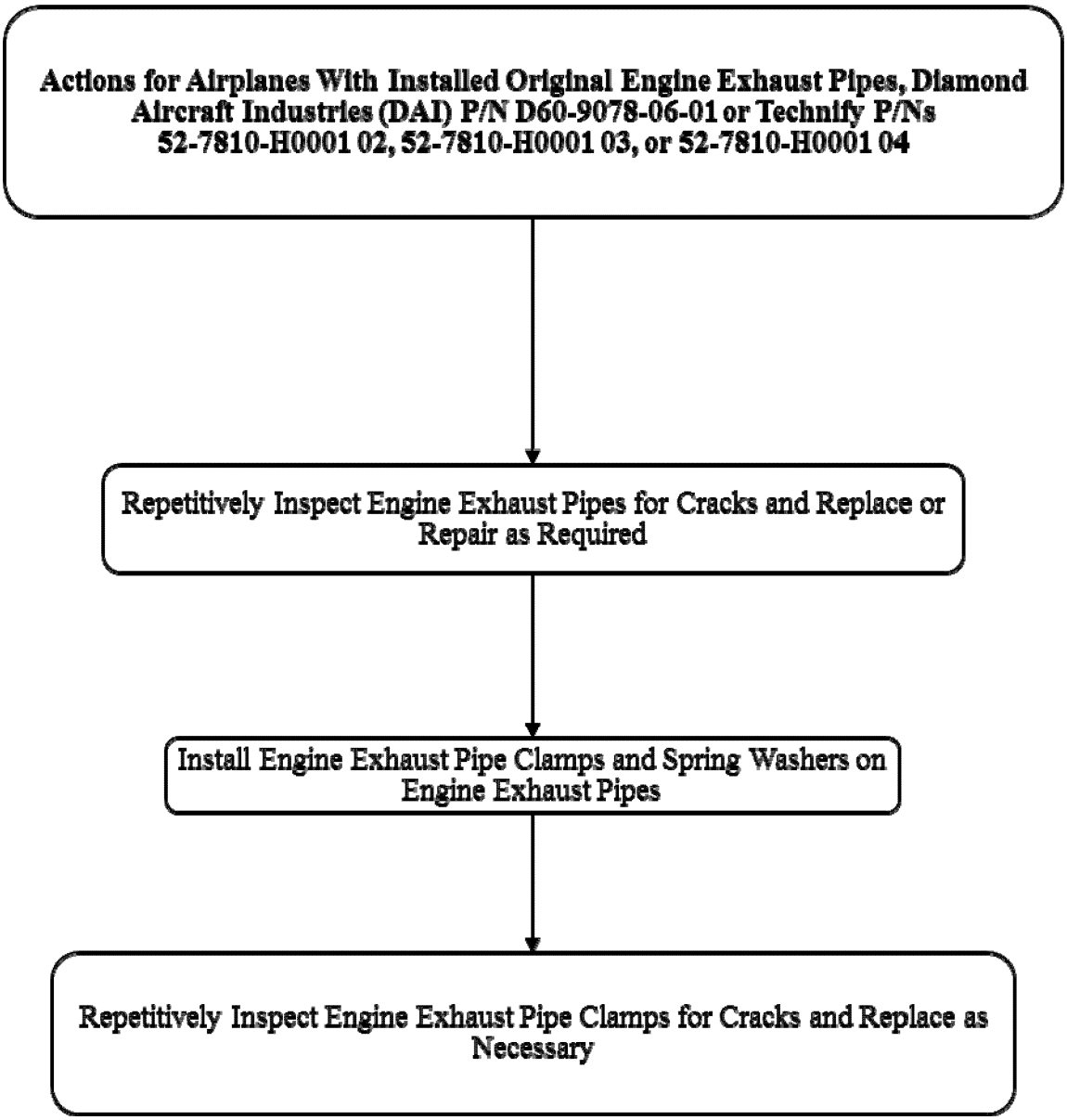
(6) For Diamond Aircraft Industries GmbH service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Strasse 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* internet: *http://www.diamondaircraft.com.*

(7) You may view this service information at FAA, Small Airplane Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0188.

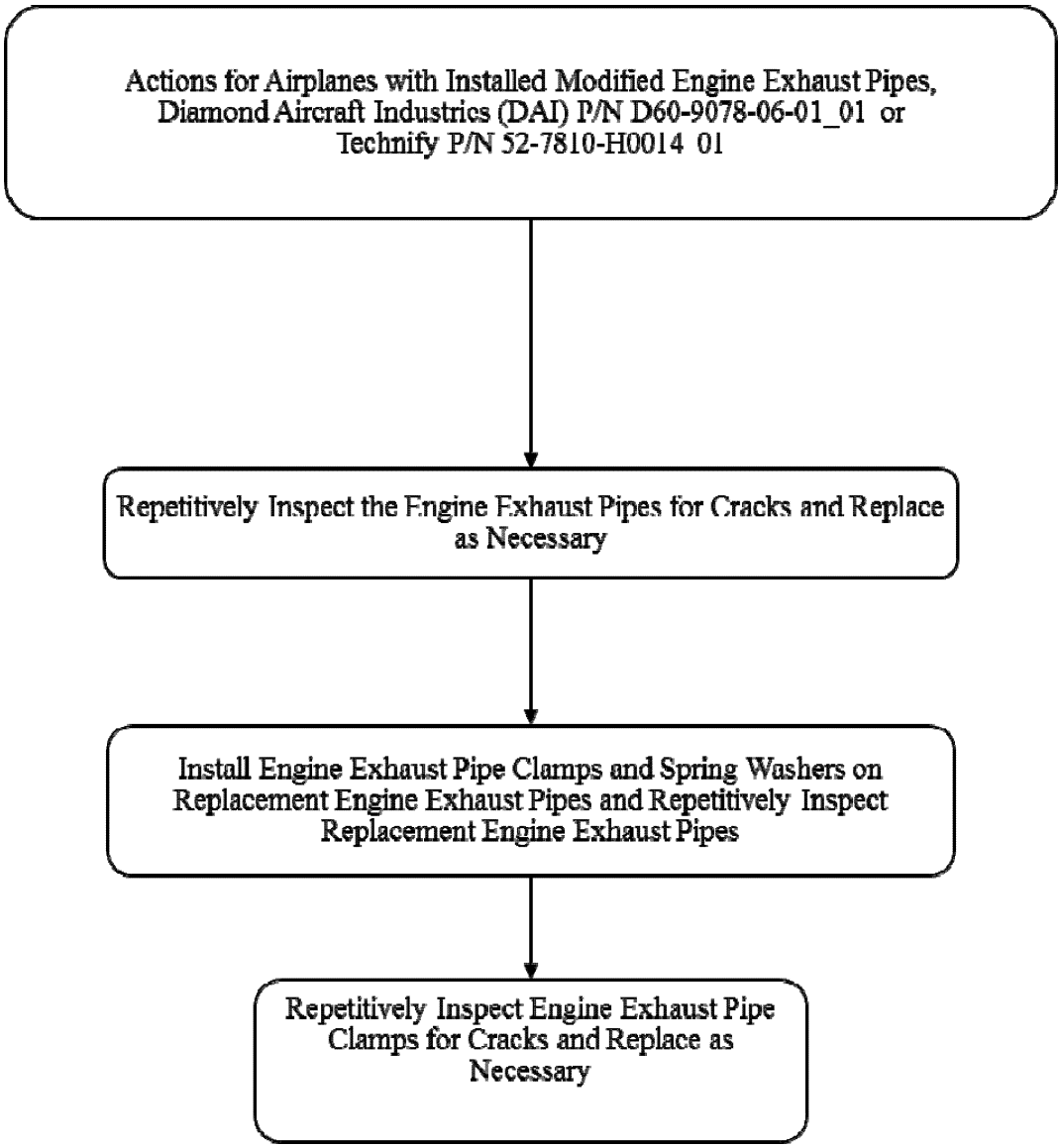
(8) You may view the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

BILLING CODE 4910–13–P

Appendix 1 to AD 2018-10-10



Appendix 2 to AD 2018-10-10



Issued in Kansas City, Missouri, on May 11, 2018.

Melvin J. Johnson,

Aircraft Certification Service, Deputy Director, Policy and Innovation Division, AIR–601.

[FR Doc. 2018–10580 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0447; Product Identifier 2018–NM–080–AD; Amendment 39–19290; AD 2018–11–02]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 188A and 188C airplanes; and Model P3A, P–3A, and P3B airplanes type certificated under various other type certificate holders. Certain variants of Model 188A and 188C airplanes are known as ''P–3'' series airplanes. P–3 series airplanes include but are not limited to Model CP–140, NP–3A, P3A, P–3A, P3B, P–3B, P–3C, P–3P, and WP–3D airplanes. This AD requires a borescope inspection of the aileron

control rod assembly to determine if threads exist on the aileron control rod body, and corrective actions if necessary. This AD was prompted by a report indicating that certain aileron control rod bodies were incorrectly machined so that they did not include the load-carrying threads in the bore of the aileron control rod body. As a result, aileron control rod assemblies, which contain the discrepant part, do not provide adequate load carrying capabilities. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 23, 2018.

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

We must receive comments on this AD by July 9, 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 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Customer Support Center, Dept. 3E1M, Zone 0591, 86 S Cobb Drive, Marietta, GA 30063; telephone 770–494–9131; email *electra.support@lmco.com;* internet *https://www.lockheedmartin.com/en-us/who-we-are/business-areas/aeronautics/mmro/customer-support-center.html.* 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–2018–0447.

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–2018–0447; 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: Hector Hernandez, Aerospace Engineer, Systems and Equipment Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5587; fax: 404–474–5606; email: *Hector.Hernandez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report indicating that certain aileron control rod bodies, part number (P/N) 826999–3, were incorrectly machined so that they did not include the load-carrying threads in the bore of the aileron control rod body. As a result, aileron control rod assemblies, P/N 826998–3, which contain the discrepant part, do not provide adequate load carrying capabilities. A number of these discrepant parts have been found installed on operational airplanes.

The discrepant aileron control rod bodies, P/N 826999–3, were machined with a smooth internal bore rather than with ⅞-inch internal threads to engage the mating part. The missing ⅞-inch internal threads are intended to transmit the aileron control loads. The incorrectly machined aileron control rod assemblies, P/N 826998–3, are held together with a single threaded #10 (0.190-inch diameter) screw that is not intended to carry aileron control forces.

Failure of the aileron control rod assembly, or loss or failure of the #10 (0.190-inch diameter) screw holding the left (or right) aileron control rod assembly together, if not addressed, will result in loss of aileron authority, and could result in the jamming of both left and right ailerons, and loss of control of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Lockheed Martin Aeronautics Company Aircraft Maintenance Bulletin M0017R2, Revision 2, dated May 10, 2018. This service information describes procedures for a borescope inspection of the aileron control rod assembly to determine if threads exist on the aileron control rod body. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously, and replacement of the aileron control rod assembly with a serviceable assembly.

Difference Between Service Information and AD

Lockheed Martin Aeronautics Company Aircraft Maintenance Bulletin M0017R2, Revision 2, dated May 10, 2018, recommends that the inspection be performed before the next flight. This AD, however, allows 3 days after the effective date of the AD to do this inspection. We have determined that 3 days will allow affected operators time for an orderly inspection of their fleet and still provide an acceptable level of safety.

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 comments 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 failure of the aileron control rod assembly, or loss or failure of the #10 (0.190-inch diameter) screw holding the left (or right) aileron control rod assembly together, will result in loss of aileron authority, and could result in the jamming of both left and right ailerons, and loss of control of the airplane. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons 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–2018–0447 and Product Identifier 2018–NM–080–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 25 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
Inspection	4 work-hours × $85 per hour = $340	$0	$340	$8,500

We estimate the following costs to replace any aileron control rod assembly that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	9 work-hours × $85 per hour = $765	$1,600	$2,365

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–11–02 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company and various other type certificate holders: Amendment 39–19290; Docket No. FAA–2018–0447; Product Identifier 2018–NM–080–AD.

(a) Effective Date

This AD is effective May 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 188A and 188C airplanes; and Model P3A, P–3A, and P3B airplanes type certificated under various other type certificate holders; certificated in any category.

Note 1 to paragraph (c) of this AD: Certain variants of Model 188A and 188C airplanes are known as ''P–3'' series airplanes. P–3 series airplanes include but are not limited to Model CP–140, NP–3A, P3A, P–3A, P3B, P–3B, P–3C, P–3P, and WP–3D airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by a report indicating that certain aileron control rod bodies, part number (P/N) 826999–3, were incorrectly machined so that they did not include the load-carrying threads in the bore

of the aileron control rod body. As a result, aileron control rod assemblies, P/N 826998–3, which contain the discrepant part, do not provide adequate load carrying capabilities. We are issuing this AD to address failure of the aileron control rod assembly, or loss or failure of the #10 (0.190-inch diameter) screw holding the left (or right) aileron control rod assembly together, which will result in loss of aileron authority, and could result in the jamming of both left and right ailerons, and loss of control of the airplane.

(f) Compliance

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

(g) Inspection

Within 3 days after the effective date of this AD, perform a borescope inspection of the aileron control rod assembly, P/N 826998–3, to determine if threads exist on the aileron control rod body, P/N 826999–3, in accordance with Lockheed Martin Aeronautics Company Aircraft Maintenance Bulletin M0017R2, Revision 2, dated May 10, 2018. If the inspection indicates missing threads on the aileron control rod body, before further flight, replace the aileron control rod assembly with a serviceable part. A serviceable aileron control rod assembly is one that has been inspected in accordance with the requirements of this paragraph and found to have internal threads on the aileron control rod body.

Note 2 to paragraph (g) of this AD: Guidance on replacing the aileron control rod assembly can be found in Lockheed Martin Aircraft Maintenance Manual Sections 27–2–2 AILERON PRIMARY CONTROL CABLES, Maintenance Practices, Rigging of Aileron Primary Control Cable System; 27–2–3 AILERON PUSH–PULL TUBES, BRACKETS AND BELLCRANKS, Maintenance Practices, Aileron Push-Pull Tubes, Brackets and Bellcranks, Remove/Replace/Adjust/Rig; and 27–2–4 AILERON, Maintenance Practices, Removal/Installation/Adjustment/Lubrication aileron.

(h) Parts Installation Limitation

As of the effective date of this AD, no person may install an aileron control rod assembly, P/N 826998–3, on any airplane, unless the aileron control rod assembly is serviceable as defined in paragraph (g) of this AD.

(i) Reporting Provisions

Although Lockheed Martin Aeronautics Company Aircraft Maintenance Bulletin M0017R2, Revision 2, dated May 10, 2018, recommends that inspection reports be submitted to Lockheed, this AD does not require that action.

(j) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD.

(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.

(l) Related Information

For more information about this AD, contact Hector Hernandez, Aerospace Engineer, Systems and Equipment Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5587; fax: 404–474–5606; email: *Hector.Hernandez@faa.gov.*

(m) 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) Lockheed Martin Aeronautics Company Aircraft Maintenance Bulletin M0017R2, Revision 2, dated May 10, 2018 (only the first page contains the date).

(ii) Reserved.

(3) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Customer Support Center, Dept. 3E1M, Zone 0591, 86 S Cobb Drive, Marietta, GA 30063; telephone 770–494–9131; email *electra.support@lmco.com;* internet *https://www.lockheedmartin.com/en-us/who-we-are/business-areas/aeronautics/mmro/customer-support-center.html.*

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

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

Issued in Des Moines, Washington, on May 17, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–11133 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0238; Product Identifier 2018–SW–018–AD; Amendment 39–19265; AD 2018–06–51]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are publishing a new airworthiness directive (AD) for Agusta S.p.A. Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, AW109SP, and AW119 MKII helicopters. This AD requires removing a certain swashplate support (support) from service. This AD is prompted by an error in a parts catalog incorrectly identifying the support as approved for installation on Model AW109SP helicopters. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective June 7, 2018 to all persons except those persons to whom it was made immediately effective by Emergency AD 2018–06–51, issued on March 19, 2018, which contains the requirements of this AD.

We must receive comments on this AD by July 23, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0238; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the

European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

On March 19, 2018, we issued Emergency AD 2018–06–51 to address an unsafe condition on Agusta S.p.A. Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, AW109SP, and AW119 MKII helicopters with a support part number (P/N) 109–0110–05–101 installed. Emergency AD 2018–06–51 was sent previously to all known U.S. owners and operators of these helicopters. Emergency AD 2018–06–51 requires removing the supports from service and re-identifying spherical sleeve assembly (sleeve) P/N 109–0134–02–103.

Emergency AD 2018–06–51 was prompted by an error in a parts catalog that incorrectly identifies support P/N 109–0110–05–101 as approved for installation on Model AW109SP helicopters. Support P/N 109–0110–05–101 is made of aluminum alloy and is approved for installation on Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, and AW119 MKII helicopters, but is not approved for installation on Model AW109SP helicopters. The approved support for Model AW109SP helicopters is made of steel. This condition, if not corrected, could result in failure of the support and subsequent loss of control of the helicopter.

EASA, which is the Technical Agent for the Member States of the European Union, issued AD No. No. 2018–0053–E, dated March 8, 2018, to correct an unsafe condition for Leonardo S.p.A. Helicopters (previously Agusta S.p.A.) Model AW109SP helicopters. The EASA AD advises that support P/N 109–0110–05–101, which is not eligible for installation on Model AW109SP helicopters, was erroneously listed in the Model AW109SP parts catalog. EASA states that this may have led to inadvertent installations of the support in service on a Model AW109SP helicopter. The EASA AD requires replacing the support and re-identifying the P/N on the identification plate of the sleeve if the P/N is not P/N 109–0134–02–105. Sleeve P/N 109–0134–02–105 is composed of the steel support. The EASA AD also prohibits installing the support on any Model AW109SP helicopter. EASA states that its AD actions are intended to prevent failure of the support, which could result in loss of control of the helicopter.

The FAA is in the process of updating Agusta S.p.A.'s name change to Leonardo S.p.A. on its FAA type certificate. Because this name change is not yet effective, this AD specifies Agusta S.p.A. as the type certificate holder.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all the information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

We reviewed Leonardo Helicopters Emergency Alert Service Bulletin No. 109SP–119, dated March 7, 2018. This service information specifies replacing support P/N 109–0110–05–101 with support P/N 109–0134–29–101. This service information also specifies inspecting the sleeve identification plate and depending on the findings, replacing and re-identifying the identification plate.

AD Requirements

This AD requires removing support P/N 109–0110–05–101 from service that is or has been installed on a Model AW109SP helicopter. If sleeve P/N 109–0134–02–103 is installed, this AD requires re-identifying the P/N of the sleeve on Model AW109SP helicopters. This AD also prohibits installing support P/N 109–0110–05–101 on any Model AW109SP helicopter.

Differences Between This AD and the EASA AD

This AD requires removing a support installed on a Model AW109SP helicopter from service before further flight, while the compliance time in the EASA AD depends on the flight hours of the support. This AD applies to Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, and AW119 MKII helicopters and requires removing the support installed on these models from service if previously installed on a Model AW109SP helicopter. The EASA AD does not apply to these models or contain this requirement for supports previously installed on a Model AW109SP helicopter.

Costs of Compliance

We estimate that this AD affects 266 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Replacing a support takes about 10 work-hours and parts cost about $6,288 for an estimated cost of $7,138 per helicopter. Re-identifying a sleeve identification plate takes about 0.5 work-hour and the parts cost is minimal for an estimated cost of $43 per helicopter.

According to Leonardo Helicopter's service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo Helicopters. Accordingly, we have included all costs in our cost estimate.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that required the immediate adoption of Emergency AD 2018–06–51, issued on March 19, 2018, to all known U.S. owners and operators of these helicopters. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule because the required corrective actions must be accomplished before further flight or within 5 hours time-in-service, depending on the model helicopter. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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 to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–06–51 Agusta S.p.A.: Amendment 39–19265; Docket No. FAA–2018–0238; Product Identifier 2018–SW–018–AD.

(a) Applicability

This AD applies to Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, AW109SP, and AW119 MKII helicopters, certificated in any category, with a swashplate support (support) part number (P/N) 109–0110–05–101 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as installation of a support that does not meet type design. This condition could result in failure of a support and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective June 7, 2018 to all persons except those persons to whom it was made immediately effective by Emergency AD 2018–06–51, issued on March 19, 2018, which contains the requirements of this AD.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) For Model AW109SP helicopters, before further flight:

(i) Remove the support from service.

(ii) If spherical sleeve assembly (sleeve) P/N 109–0134–02–103 is installed, re-identify the sleeve by permanently changing the P/N on the identification plate to P/N 109–0134–02–105.

(2) For Model A109A, A109A II, A109C, A109E, A109K2, A109S, A119, and AW119 MKII helicopters, within 5 hours time-in-service, remove support P/N 109–0110–05–101 from service if it has ever been installed on a Model AW109SP helicopter.

(3) After the effective date of this AD, do not install support P/N 109–0110–05–101 on any Model AW109SP helicopter.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Leonardo Helicopters Emergency Alert Service Bulletin No. 109SP–119, dated March 7, 2018, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2018–0053–E, dated March 8, 2018. You may view the EASA AD on the internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2018–0238.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6230, Main Rotor Mast/Swashplate.

Issued in Fort Worth, Texas, on May 11, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–10922 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0429; Product Identifier 2018–NE–13–AD; Amendment 39–19287; AD 2018–09–51]

RIN 2120–AA64

Airworthiness Directives; CFM International S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for CFM International, S.A., (CFM) CFM56–7B model engines. This emergency AD was sent previously to all known U.S. owners and operators of CFM CFM56–7B model engines. This AD requires a one-time ultrasonic inspection (USI) of the concave and convex sides of the fan blade dovetail. This AD was prompted by a recent engine failure due to a fractured fan blade, which resulted in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 7, 2018 to all persons except those persons to whom it was made immediately effective by Emergency AD 2018–09–51, issued on April 20, 2018, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 14, 2018 (83 FR 19176, May 2, 2018).

We must receive comments on this AD by July 9, 2018.

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

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

For service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877–432–3272; fax: 877–432–3329; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0429.

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–2018–0429; 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 listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; Email: *chris.mcguire@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On April 20, 2018, we issued Emergency AD 2018–09–51, which requires a one-time USI of the concave and convex sides of the fan blade dovetail. This emergency AD was sent previously to all known U.S. owners and operators of these CFM CFM56–7B model engines. This action was prompted by a recent engine failure due to a fractured fan blade. There was one passenger fatality as a result of the event. This condition, if not addressed, could result in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

Relevant Service Information Under 1 CFR Part 51

We reviewed CFM Service Bulletin (SB) CFM56–7B S/B 72–1033, dated April 20, 2018. The service information describes procedures for performing a USI for cracks of the fan blade dovetail and removal of cracked fan blades from service. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires a one-time USI of the concave and convex sides of the fan blade dovetail.

Differences Between This AD and the Service Information

CFM SB CFM56–7B S/B 72–1033, dated April 20, 2018, provides actions for engines with fewer than 30,000 flight cycles, but this AD does not affect those engines. The service information also specifies repetitive inspections, but this AD does not require that the inspection be repeated. We published AD 2018–09–10 (83 FR 19176, May 2, 2018), which addresses those differences.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of Emergency AD 2018–09–51, issued on April 20, 2018, to all known U.S. owners and operators of these engines. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the USI must be performed within 20 days. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason 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–2018–0429 and Product Identifier 2018–NE–13–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 532 engines installed on 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
Inspect engine fan blade	2 work-hours × $85 per hour = $170	$0	$170	$90,440

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace fan blade	1 work-hour × $85 per hour = $85	$8,500	$8,585

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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–09–51 CFM International S.A.: Amendment 39–19287; Docket No. FAA–2018–0429; Product Identifier 2018–NE–13–AD.

(a) Effective Date

This AD is effective June 7, 2018 to all persons except those persons to whom it was made immediately effective by Emergency AD 2018–09–51, issued on April 20, 2018, which contained the requirements of this amendment.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all CFM International, S.A., (CFM) CFM56–7B20, –7B22, –7B24, –7B26, –7B27, –7B22/B1, –7B24/B1, –7B26/B1, –7B26/B2, –7B27/B1, –7B27/B3, –7B20/3, –7B22/3, –7B24/3, –7B26/3, –7B27/3, –7B22/3B1, –7B24/3B1, –7B26/3B1, –7B26/3B2, –7B26/3F, –7B26/3B2F, –7B27/3B1, –7B27/3B3, –7B27/3F, –7B27/3B1F, –7B20E, –7B22E, –7B24E, –7B26E, –7B27E, –7B22E/B1, –7B24E/B1, –7B26E/B1, –7B26E/B2, –7B26E/F, –7B26E/B2F, –7B27E/B1, –7B27E/B3, –7B27E/F, –7B27E/B1F, –7B20/2, –7B22/2, –7B24/2, –7B26/2, –7B27/2, –7B27A,

–7B27AE, and –7B27A/3 engine models, with 30,000 or more total accumulated flight cycles since new, as of April 20, 2018.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine.

(e) Unsafe Condition

This AD was prompted by recent event involving an engine failure, resulting in the engine inlet cowl disintegrating, debris penetrating the fuselage causing a loss of pressurization and prompting an emergency descent. There was one passenger fatality as a result of the event. We are issuing this AD to address fan blade failure due to cracking, which could result in an engine in-flight shutdown (IFSD), uncontained release of debris, damage to the engine, damage to the airplane, and possible airplane decompression.

(f) Compliance

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

(g) Inspection

(1) Within 20 days after the effective date of this AD, perform a one-time ultrasonic inspection of all 24 fan blade dovetail concave and convex sides to detect cracking.

(2) Use the Accomplishment Instructions, paragraphs 3.A.(3)(a) through (i), of CFM Service Bulletin (SB) CFM56–7B S/B 72–1033, dated April 20, 2018, to perform the inspection required by paragraph (g)(1) of this AD.

(h) Corrective Action

If any unserviceable indication, as specified in CFM SB CFM56–7B S/B 72–1033, dated April 20, 2018, is found during any inspection required by this AD, remove the affected fan blade from service before further flight.

(i) No Reporting Required

Although CFM SB CFM56–7B S/B 72–1033, dated April 20, 2018, specifies to report findings, this AD does not include that requirement.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD, if those actions were performed before receipt of this AD using CFM SB CFM56–7B S/B 72–1019, dated March 24, 2017; or Revision 1, dated June 13, 2017; or CFM SB CFM56–7B S/B 72–1024, dated July 24, 2017.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD. You may email your request to *ANE-AD-AMOC@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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(3)(i) and (k)(3)(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. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

(l) Related Information

For more information about this AD, contact Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; Email: *chris.mcguire@faa.gov.*

(m) 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.

(3) The following service information was approved for IBR on May 14, 2018 (83 FR 19176, May 2, 2018).

(i) CFM International, S.A., (CFM) Service Bulletin CFM56–7B S/B 72–1033, dated April 20, 2018.

(ii) Reserved.

(4) For CFM service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: 877–432–3272; fax: 877–432–3329; email: *aviation.fleetsupport@ge.com.*

(5) You may view this service information at FAA, Engine and Propeller Standards Branch, Policy and Innovation Division, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7759.

(6) 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 Burlington, Massachusetts, on May 18, 2018.

Robert J. Ganley,

Manager, Engine & Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–11027 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0149; Airspace Docket No. 18–AEA–1]

RIN 2120–AA66

Modification of VOR Federal Airway V–312; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action modifies the description of VOR Federal airway V–312 by removing a maximum authorized altitude (MAA) limitation published along the airway segment between the Woodstown, NJ, VORTAC, and the Coyle, NJ, VORTAC. The MAA is no longer required for air traffic control purposes and the FAA is removing it in order to improve the efficient flow of air traffic in the Philadelphia, PA area.

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

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/*ibr-locations.html.

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

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies VOR Federal airway V–312 to improve the efficient flow of air traffic.

History

VOR Federal airway V–312 extends between a point at the intersection of the Andrews, MD, VORTAC 060° radial, and the Baltimore, MD, VORTAC 165° radial (*i.e.,* the charted POLLA fix); and the intersection of the Coyle, NJ, VORTAC 090° radial, and the Kennedy, NY, VOR/DME 154° radial (*i.e.,* the charted PREPI fix).

In 1972, FAA inserted a maximum authorized altitude (MAA) of 8,000 feet MSL along the segment of V–312 between the Woodstown, NJ, VORTAC, and the Coyle, NJ, VORTAC (37 FR 15424; August 2, 1972). This was an air traffic control limitation for the purpose of facilitating the clearing of enroute traffic from over the Coyle VORTAC into the Philadelphia, PA, terminal area. The normal altitude structure for VOR Federal airways extends from 1,200 feet above ground level (or higher) up to, but not including, 18,000 feet MSL. Today, the 8,000-foot MSL MAA limitation on V–312 is obsolete and hampers the orderly transition of aircraft from the terminal to the enroute environment due to ATC automation system constraints. In addition, this results in increased workload for air traffic controllers.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway listed in this document will be subsequently amended in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by removing an obsolete MAA limitation from the description of V–312. The description is modified by removing the words ''The airspace within R–5002D, the airspace below 2,000 feet MSL outside the United States, and the airspace above 8,000 feet MSL between Woodstown and Coyle is excluded.'' and adding in its place ''The airspace within R–5002D, and the airspace below 2,000 feet MSL outside the United States, is excluded.'' This action does not affect the current alignment of V–312.

Because this amendment is necessary to remove an obsolete altitude limitation that impedes the orderly transition of aircraft from the terminal to enroute environment in the Philadelphia, PA, area, I find that notice and public procedure under 5 U.S.C. 553(b) are impractical and contrary to the public interest.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying the description of VOR Federal airway V–312 by removing a maximum authorized altitude (MAA) limitation published along the airway segment between the Woodstown, NJ, VORTAC, and the Coyle, NJ, VORTAC qualifies for categorical exclusion under the National Environmental Policy Act and its agency-specific implementing regulations in FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' regarding categorical exclusions for procedural actions at paragraph 5–6.5a, which categorically excludes from full environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–312 [Amended]

From INT Andrews, MD, 060° and Baltimore, MD, 165° radials, via INT Andrews 060° and Woodstown, NJ, 230° radials; Woodstown; INT Woodstown 065° and Coyle, NJ, 264° radials; Coyle; INT Coyle 090° and Kennedy, NY, 154° radials. The airspace within R–5002D, and the airspace below 2,000 feet MSL outside the United States, is excluded.

* * * * *

Issued in Washington, DC, on May 16, 2018.

Rodger A. Dean, Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2018–10947 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1195; Airspace Docket No. 17–AEA–24]

RIN 2120–AA66

Amendment of Class D Airspace and Class E Airspace; Erie, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace, Class E surface area airspace and Class E airspace designated as an extension to a Class D surface area, by updating the name to Erie International Airport/Tom Ridge Field, Erie, PA. This action also amends Class E airspace extending upward from 700 feet above the surface in Erie, PA, by updating the name to St. Vincent Health Center Heliport. This action also updates the geographic coordinates of the airport and heliport, and replaces the outdated term ''Airport/Facility Directory'' with the term ''Chart Supplement'' in the legal descriptions of associated Class D and E airspace to match the FAA's aeronautical database. The Class E surface airspace is further clarified showing removal of the extensions, and the Class E extension airspace is further clarified showing removal of the part-time Notice to Airmen (NOTAM) language.

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

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E airspace in the Erie, PA area, to support IFR operations under standard instrument approach procedures at Erie International Airport/Tom Ridge Field, and St. Vincent Health Center Heliport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (83 FR 8210, February 26, 2018) for Docket No. FAA–2017–1195 to amend Class D airspace and Class E surface airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet or more above the surface at Erie International Airport/Tom Ridge Field and St. Vincent Health Center Heliport, Erie, PA.

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

The FAA further clarifies the rule by adding that the Class E surface airspace extensions are removed from the legal description, and the part-time Notice to Airmen (NOTAM) language is removed from the Class E extension airspace legal description. There is no practical change to the airspace as proposed by the FAA, only that we are revising it because it did not accurately describe what we proposed.

Except as described above, this rule is the same as published in the NPRM.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends Class D airspace, and Class E surface area airspace, and Class E airspace designated as an extension to a Class D surface area, by updating the airport name to Erie International Airport/Tom Ridge Field (formerly Erie International Airport). The geographic coordinates of the airport, in all airspace classes are adjusted to coincide with the FAA's aeronautical database.

Also, this action removes the airspace extensions from the Class E surface airspace legal description of the airport as it duplicates the Class E airspace designated as an extension to a Class D surface area (which is now continuous). This action also removes the part-time NOTAM language from the Class E airspace designated as an extension (inadvertently omitted in the NPRM).

Additionally, this action makes an editorial change to the airspace legal description replacing ''Airport/Facility Directory'' with ''Chart Supplement'' in the associated airspace.

This action also amends Class E airspace extending upward from 700 feet above the surface by updating the airport name to Erie International Airport/Tom Ridge Field (formerly Erie International Tom Ridge Field Airport), and the heliport name to St. Vincent Health Center Heliport (formerly Life Star Base Heliport), Erie, PA, to be in

concert with the FAA's aeronautical database.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AEA PA D Erie, PA [Amended]

Erie International Airport/Tom Ridge Field, PA
(Lat. 42°04′59″ N, long. 80°10′26″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.2-mile radius of Erie International Airport/Tom Ridge Field. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA PA E2 Erie, PA [Amended]

Erie International Airport/Tom Ridge Field, PA
(Lat. 42°04′59″ N, long. 80°10′26″ W)

That airspace extending upward from the surface within a 4.2-mile radius of Erie International Airport/Tom Ridge Field. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA PA E4 Erie, PA [Amended]

Erie International Airport/Tom Ridge Field, PA
(Lat. 42°04′59″ N, long. 80°10′26″ W)
Erie VORTAC
(Lat. 42°01′03″ N, long. 80°17′34″ W)
Erie Localizer RWY 6
(Lat. 42°05′30″ N, long. 80°09′22″ W)

That airspace extending upward from the surface extending northeast of the Erie International Airport/Tom Ridge Field 4.2-mile radius from within 4 miles northwest of the Erie VORTAC 054° radial to 3.5 miles southeast of the Erie ILS localizer northeast course then extending southwest from a point located along the Erie localizer northeast course 9.2 miles northeast of lat. 42°07′30″ N, long. 80°05′36''W, to the 4.2-mile radius of the airport.

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

* * * * *

AEA PA E5 Erie, PA [Amended]

Erie International Airport/Tom Ridge Field, PA
(Lat. 42°04′59″ N, long. 80°10′26″ W)
St. Vincent Health Center Heliport, PA
(Lat. 42°06′43″ N, long. 80°04′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Erie International Airport/Tom Ridge Field, and within 4.4 miles each side of the 054° bearing from the airport extending from the 6.7-mile radius to 14 miles northeast of the airport and within a 6-mile radius of St. Vincent Health Center Heliport.

Issued in College Park, Georgia, on May 16, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–10939 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31194; Amdt. No. 3800]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 23, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 23, 2018.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169, or

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 Mail Address: P.O. Box 25082 Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has detrmined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866;(2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979) ; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

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

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
21–Jun–18	IA	Newton	Newton Muni-Earl Johnson Field.	7/1795	4/30/18	RNAV (GPS) RWY 14, Amdt 1A.
21–Jun–18	MO	New Madrid	County Memorial	8/0236	4/30/18	Takeoff Minimums and Obstacle DP, Amdt 1.
21–Jun–18	IA	Chariton	Chariton Muni	8/0759	4/23/18	RNAV (GPS) RWY 10, Orig-A.

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
21–Jun–18	IN	Anderson	Anderson Muni-Darlington Field.	8/0820	4/23/18	RNAV (GPS) RWY 30, Orig-A.
21–Jun–18	MD	Westminster	Carroll County Rgnl/Jack B Poage Field.	8/1811	4/23/18	RNAV (GPS) RWY 34, Amdt 1A.
21–Jun–18	NY	Binghamton	Greater Binghamton/Edwin A Link Field.	8/1814	4/23/18	ILS OR LOC RWY 34, Amdt 4.
21–Jun–18	GA	Atlanta	Atlanta Rgnl Falcon Field.	8/1817	4/23/18	NDB RWY 31, Amdt 3B.
21–Jun–18	WV	Lewisburg	Greenbrier Valley	8/1887	4/23/18	ILS OR LOC RWY 4, Amdt 11.
21–Jun–18	OH	Youngstown	Youngstown Elser Metro	8/1888	4/30/18	VOR–C, Amdt 2A.
21–Jun–18	OH	Youngstown	Youngstown Elser Metro	8/1889	4/30/18	RNAV (GPS) RWY 10, Orig-B.
21–Jun–18	OH	Youngstown	Youngstown Elser Metro	8/1890	4/30/18	RNAV (GPS) RWY 28, Orig-B.
21–Jun–18	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	8/3025	4/23/18	VOR/DME RWY 19, Amdt 10F.
21–Jun–18	IL	Moline	Quad City Intl	8/3317	4/23/18	ILS OR LOC RWY 9, Amdt 31C.
21–Jun–18	MN	Caledonia	Houston County	8/3385	4/30/18	VOR/DME OR GPS–A, Amdt 3.
21–Jun–18	PA	Doylestown	Doylestown	8/3389	4/30/18	RNAV (GPS) RWY 23, Amdt 1A.
21–Jun–18	PA	Doylestown	Doylestown	8/3390	4/30/18	RNAV (GPS) RWY 5, Orig-A.
21–Jun–18.	PA	Doylestown	Doylestown	8/3391	4/30/18	VOR/DME RWY 23, Amdt 8A.
21–Jun–18	AL	Montgomery	Montgomery Rgnl (Dannelly Field).	8/3990	4/23/18	RNAV (GPS) RWY 10, Amdt 1B.
21–Jun–18	NE	Red Cloud	Red Cloud Muni	8/4513	4/30/18	RNAV (GPS) RWY 16, Orig-A.
21–Jun–18	NC	Wadesboro	Anson County—Jeff Cloud Field.	8/4536	4/23/18	Takeoff Minimums and Obstacle DP, Amdt 2.
21–Jun–18	RI	Newport	Newport State	8/4770	4/23/18	LOC RWY 22, Amdt 7D.
21–Jun–18	MI	Boyne Falls	Boyne Mountain	8/5324	4/30/18	RNAV (GPS) RWY 17, Orig.
21–Jun–18	MI	Boyne Falls	Boyne Mountain	8/5325	4/30/18	RNAV (GPS) RWY 35, Orig.
21–Jun–18	AZ	Mesa	Falcon Fld	8/5418	4/30/18	RNAV (GPS) RWY 4L, Amdt 1A.
21–Jun–18	CA	Los Angeles	Los Angeles Intl	8/5913	4/30/18	RNAV (GPS) Y RWY 24L, Amdt 5A.
21–Jun–18	CA	Los Angeles	Los Angeles Intl	8/5914	4/30/18	ILS OR LOC RWY 24L, Amdt 27B.
21–Jun–18	IL	Springfield	Abraham Lincoln Capital	8/5917	4/30/18	ILS OR LOC RWY 4, Amdt 25G.
21–Jun–18	PA	Pottstown	Pottstown Muni	8/6273	4/23/18	Takeoff Minimums and Obstacle DP, Amdt 2A.
21–Jun–18	AL	Mobile	Mobile Rgnl	8/6752	4/23/18	RNAV (GPS) RWY 18, Amdt 1A.
21–Jun–18	AL	Mobile	Mobile Rgnl	8/6753	4/23/18	RNAV (GPS) RWY 36, Amdt 1A.
21–Jun–18	NJ	Princeton/Rocky Hill	Princeton	8/7011	4/23/18	RNAV (GPS) RWY 28, Orig-A.
21–Jun–18	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	8/7274	4/23/18	VOR/DME RWY 28, Amdt 1B.
21–Jun–18	LA	New Orleans	Louis Armstrong New Orleans Intl.	8/7386	4/23/18	ILS OR LOC RWY 2, Amdt 18.
21–Jun–18	OH	Urbana	Grimes Field	8/7454	4/23/18	VOR–A, Amdt 5C.
21–Jun–18	OH	Urbana	Grimes Field	8/7455	4/23/18	RNAV (GPS) RWY 2, Amdt 1.
21–Jun–18	OH	Urbana	Grimes Field	8/7456	4/23/18	RNAV (GPS) RWY 20, Amdt 1.
21–Jun–18	MI	Linden	Prices	8/8225	4/23/18	RNAV (GPS) RWY 9, Amdt 1.
21–Jun–18	MI	Linden	Prices	8/8227	4/23/18	RNAV (GPS) RWY 27, Amdt 1.
21–Jun–18	MI	Linden	Prices	8/8228	4/23/18	VOR–A, Orig-A.
21–Jun–18	TX	Amarillo	Rick Husband Amarillo Intl.	8/8443	4/23/18	Takeoff Minimums and Obstacle DP, Amdt 1.
21–Jun–18	TN	Columbia/Mount Pleasant.	Maury County	8/9094	4/23/18	Takeoff Minimums and Obstacle DP, Amdt 3.
21–Jun–18	MA	Westfield/Springfield	Westfield-Barnes Rgnl	8/9142	4/23/18	Takeoff Minimums and Obstacle DP, Amdt 4A.
21–Jun–18	NC	Washington	Washington-Warren	8/9809	4/23/18	VOR/DME RWY 5, Amdt 3A.
21–Jun–18	NE	Scottsbluff	Western Nebraska Rgnl/William B Heilig Field.	8/9815	4/23/18	RNAV (GPS) RWY 5, Amdt 1A.
21–Jun–18	AL	Guntersville	Guntersville Muni—Joe Starnes Field.	8/9817	4/23/18	RNAV (GPS) RWY 7, Orig.

[FR Doc. 2018–10817 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31193; Amdt. No. 3799]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 23, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of May 23, 2018.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

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

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 21 June 2018

Brookhaven, MS, Brookhaven-Lincoln County, Takeoff Minimums and Obstacle DP, Amdt 1
Myrtle Beach, SC, Myrtle Beach Intl, ILS OR LOC RWY 18, ILS RWY 18 (SA CAT I), ILS RWY 18 (SA CAT II), Amdt 5A
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 18, Amdt 4B
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 28, Orig-B
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 36, Orig-B
New Holstein, WI, New Holstein Muni, RNAV (GPS) RWY 32, Orig-B

Effective 19 July 2018

Nikolai, AK, Nikolai, RNAV (GPS) RWY 5, Amdt 1
Nikolai, AK, Nikolai, RNAV (GPS) RWY 23, Amdt 1
Nikolai, AK, Nikolai, Takeoff Minimums and Obstacle DP, Amdt 1
Fayette, AL, Richard Arthur Field, RNAV (GPS) RWY 1, Amdt 1C
Fayette, AL, Richard Arthur Field, RNAV (GPS) RWY 19, Amdt 1C
Fayetteville, AR, Drake Field, RADAR 1, Orig-A, CANCELED
Siloam Springs, AR, Smith Field, VOR–A, Amdt 9, CANCELED
Apple Valley, CA, Apple Valley, Takeoff Minimums and Obstacle DP, Amdt 1A
Davis/Woodland/Winters, CA, Yolo County, Takeoff Minimums and Obstacle DP, Amdt 2
Eureka, CA, Murray Field, RNAV (GPS) RWY 12, Orig-A
Eureka, CA, Murray Field, RNAV (GPS)-B, Orig-A
Eureka, CA, Murray Field, VOR–A, Amdt 7B
Susanville, CA, Susanville Muni, RNAV (GPS)-A, Amdt 2
Tulare, CA, Mefford Field, Takeoff Minimums and Obstacle DP, Orig-A
Denver, CO, Denver Intl, ILS OR LOC RWY 17R, Amdt 3B
Denver, CO, Denver Intl, ILS OR LOC RWY 35L, ILS RWY 35L SA CAT I, ILS RWY 35L CAT II, ILS RWY 35L CAT III, Amdt 5B
Rangely, CO, Rangely, ELIZZ ONE, Graphic DP
Rangely, CO, Rangely, Takeoff Minimums and Obstacle DP, Orig
Danielson, CT, Danielson, Takeoff Minimums and Obstacle DP, Amdt 4
Williston, FL, Williston Muni, Takeoff Minimums and Obstacle DP, Amdt 2A
Douglas, GA, Douglas Muni, RNAV (GPS) RWY 4, Amdt 2
Douglas, GA, Douglas Muni, RNAV (GPS) RWY 22, Amdt 2
Jesup, GA, Jesup-Wayne County, RNAV (GPS) RWY 29, Orig-A
Macon, GA, Macon Downtown, VOR–A, Amdt 6A
Lihue, HI, Lihue, DIANE ONE, GRAPHIC DP, CANCELED
Clarinda, IA, Schenck Field, RNAV (GPS) RWY 2, Amdt 1
Clarinda, IA, Schenck Field, RNAV (GPS) RWY 20, Amdt 1
Blackfoot, ID, McCarley Fld, Takeoff Minimums and Obstacle DP, Amdt 1A
Chicago/Aurora, IL, Aurora Muni, RNAV (GPS) RWY 27, Amdt 1B
Chicago/Aurora, IL, Aurora Muni, VOR RWY 36, Amdt 3A
Chicago, IL, Chicago Midway Intl, Takeoff Minimums and Obstacle DP, Amdt 12
Jacksonville, IL, Jacksonville Muni, VOR RWY 13, Amdt 1, CANCELED
Lawrenceville, IL, Lawrenceville-Vincennes Intl, Takeoff Minimums and Obstacle DP, Orig-A
Plymouth, MA, Plymouth Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, ILS OR LOC RWY 10, ILS RWY 10 (SA CAT I), ILS RWY 10 (CAT II), ILS RWY 10 (CAT III), Amdt 21C
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) Y RWY 10, Amdt 3C
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) Y RWY 28, Amdt 2C
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (RNP) Z RWY 10, Amdt 2C
Eastport, ME, Eastport Muni, NDB RWY 15, Amdt 1A, CANCELED
Eastport, ME, Eastport Muni, NDB RWY 33, Amdt 1A, CANCELED
Kalamazoo, MI, Kalamazoo/Battle Creek Intl, RNAV (GPS) RWY 5, Amdt 1
Kalamazoo, MI, Kalamazoo/Battle Creek Intl, RNAV (GPS) RWY 23, Amdt 1
Kalamazoo, MI, Kalamazoo/Battle Creek Intl, RNAV (GPS) RWY 35, Amdt 1
Plymouth, MI, Canton-Plymouth-Mettetal, RNAV (GPS)–B, Orig-A
Plymouth, MI, Canton-Plymouth-Mettetal, VOR–A, Amdt 12A, CANCELED
West Branch, MI, West Branch Community, RNAV (GPS) RWY 27, Amdt 1
West Branch, MI, West Branch Community, VOR RWY 27, Orig-F, CANCELED
Manteo, NC, Dare County Rgnl, NDB RWY 5, Amdt 5, CANCELED
Manteo, NC, Dare County Rgnl, NDB RWY 17, Amdt 6A, CANCELED
Gordon, NE, Gordon Muni, NDB RWY 22, Amdt 4C
Moriarty, NM, Moriarty Muni, RNAV (GPS) RWY 8, Orig-A
Moriarty, NM, Moriarty Muni, RNAV (GPS) RWY 26, Orig-A
Moriarty, NM, Moriarty Muni, Takeoff Minimums and Obstacle DP, Orig-A
Hudson, NY, Columbia County, Takeoff Minimums and Obstacle DP, Amdt 1A
Wellsville, NY, Wellsville Muni Arpt,Tarantine Fld, VOR–A, Amdt 6, CANCELED
West Union, OH, Alexander Salamon, NDB RWY 23, Amdt 4A, CANCELED
Okmulgee, OK, Okmulgee Rgnl, RNAV (GPS) RWY 36, Orig
Portland, OR, Portland-Troutdale, Takeoff Minimums and Obstacle DP, Amdt 7
Philadelphia, PA, Philadelphia Intl, ILS V RWY 9R (CONVERGING), Amdt 6
Philadelphia, PA, Philadelphia Intl, ILS V RWY 17 (CONVERGING), Amdt 7
Reading, PA, Reading Rgnl/Carl A Spaatz Field, Takeoff Minimums and Obstacle DP, Amdt 5A
Clemson, SC, Oconee County Rgnl, NDB RWY 25, Amdt 1A, CANCELED
Brookings, SD, Brookings Rgnl, ILS OR LOC RWY 12, Orig-C
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 17L, ILS RWY 17L SA CAT I, ILS RWY 17L CAT II, ILS RWY 17L CAT III, Amdt 3A
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 17R, Amdt 5A
Beaumont/Port Arthur, TX, Jack Brooks Rgnl, LOC BC RWY 30, Amdt 20, CANCELED
Bowie, TX, Bowie Muni, NDB RWY 17, Amdt 4A, CANCELED
Bowie, TX, Bowie Muni, RNAV (GPS) RWY 17, Amdt 1
Bowie, TX, Bowie Muni, RNAV (GPS) RWY 35, Amdt 2
Carrizo Springs, TX, Dimmit County, NDB RWY 31, Amdt 3C, CANCELED
Lamesa, TX, Lamesa Muni, RNAV (GPS) RWY 16, Amdt 1
Lamesa, TX, Lamesa Muni, RNAV (GPS) RWY 34, Amdt 2
Lubbock, TX, Lubbock Preston Smith Intl, RNAV (GPS) RWY 8, Amdt 3
Lubbock, TX, Lubbock Preston Smith Intl, RNAV (GPS) RWY 26, Amdt 3
Mineola, TX, Mineola Wisener Field, Takeoff Minimums and Obstacle DP, Orig-B
Mineola, TX, Mineola Wisener Field, VOR–A, Amdt 6C
Huntington, UT, Huntington Muni, Takeoff Minimums and Obstacle DP, Amdt 2B
Richmond, VA, Richmond Intl, ILS OR LOC RWY 2, Amdt 2B
Richmond, VA, Richmond Intl, ILS OR LOC RWY 16, Amdt 9B
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 7, Amdt 1B
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 25, Amdt 2A
Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 2, Amdt 1C
Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 16, Amdt 1D
Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 20, Amdt 2C

Richmond, VA, Richmond Intl, RNAV (GPS) Z RWY 34, Amdt 1D
Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 2, Orig-B
Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 16, Orig-C
Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 20, Orig-B
Richmond, VA, Richmond Intl, RNAV (RNP) Y RWY 34, Orig-C
Highgate, VT, Franklin County State, VOR RWY 19, Amdt 5B
Burlington, WI, Burlington Muni, VOR RWY 29, Amdt 8B, CANCELED
Milwaukee, WI, Lawrence J Timmerman, LOC RWY 15L, Amdt 6D

Rescinded: On April 9, 2018 (83 FR 15052), the FAA published an Amendment in Docket No. 31186, Amdt No. 3793, to Part 97 of the Federal Aviation Regulations under section 97.33. The following entry for Kailua/Kona, HI, effective April 26, 2018, is hereby rescinded in its entirety:

Kailua/Kona, HI, Ellison Onizuka Kona Intl at Keahole, RNAV (RNP) Z RWY 17, Orig-B

[FR Doc. 2018–10818 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2018–0067]

Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Interim statement of enforcement priorities.

SUMMARY: The U.S. Department of Transportation (DOT or the Department) is issuing a statement of enforcement priorities to apprise the public of its intended enforcement focus with respect to transportation of service animals in the cabin of aircraft. The Department regulates the transportation of service animals under the Air Carrier Access Act (ACAA) and its implementing regulation. The Department seeks comment on this interim statement, and intends to issue a final statement after the close of the comment period.

DATES: The interim statement of enforcement proprieties is applicable May 23, 2018. Comments should be filed by June 7, 2018. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2018–0067 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. 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 Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2018–0067 at the beginning of your comment. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone can search the electronic form of all comments received in 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), or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents and comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Robert Gorman, Senior Trial Attorney, or Blane A. Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *robert.gorman@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Air Carrier Access Act (ACAA) prohibits discrimination in airline service on the basis of disability. 49 U.S.C. 41705. DOT's rule implementing the ACAA generally requires that airlines permit an individual with a disability to travel with his or her service animal in the cabin at no additional charge. 14 CFR 382.31(a). Service animals play a vital role in the lives of many individuals with disabilities. For example, service animals serve as guides for persons with visual impairments, notify persons who are deaf or hard of hearing of public announcements and/or possible hazards, warn persons with post-traumatic stress disorder or other mental or emotional disabilities at the onset of an emotional crisis, and retrieve items for passengers with mobility impairments. At the same time, the Department recognizes that airlines have a responsibility to ensure the health, safety, and welfare of all of its passengers and employees. In enforcing the requirements of Federal law, the Department is committed to ensuring that our air transportation system is safe and accessible for everyone.

DOT requires airlines to allow a wide variety of service animals in the cabin of aircraft flying to, from, and within the United States. Under the ACAA, the Department considers a service animal to be any animal that is individually trained to assist a person with a disability, or an animal that is necessary for the emotional well-being of a passenger. 14 CFR 382.117(e) and Guidance Concerning Service Animals in Air Transportation, 73 FR 27614, 27658 (May 13, 2008). However, airlines are never required to accept snakes, reptiles, ferrets, rodents, sugar gliders, and spiders. Airlines may also exclude animals that are too large or heavy to be accommodated in the cabin, pose a direct threat to the health or safety of others, cause a significant disruption of cabin service, or are prohibited from entering a foreign country. 14 CFR 382.117(f). In addition, airlines may deny transport to a service animal that is not well-behaved, suggesting a lack of proper training. 14 CFR 382.117(i) and Guidance Concerning Service Animals in Air Transportation, 73 FR 27614, 27659 (May 13, 2008). Foreign air carriers are required to only transport dogs. 14 CFR 382.117(f).

Under DOT rules, airlines determine whether an animal is a service animal or pet by the credible verbal assurance of an individual with a disability using the animal, or by looking for physical indicators such as the presence of a harness or tags. 14 CFR 382.117(d). If the animal is a psychiatric service animal (PSA) or an emotional support animal (ESA), airlines may also require documentation by a licensed mental health professional stating that the passenger has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders IV (DSM–IV) and that the passenger needs the animal for air travel or activity at the passenger's destination. 14 CFR 382.117(e). Airlines may also require 48 hours' advance notice and check-in one hour before the check-in time for the general public as a condition for travel with an ESA or

PSA. 14 CFR 382.27(c)(8). Airlines are prohibited from imposing such a requirement for travel with other types of service animals, except for travel with a service animal on a flight segment scheduled to take 8 hours or more. 14 CFR 382.27(a); 382.27(c)(9).

In 2016, the Department attempted to change its service animal requirements through a negotiated rulemaking because of widespread dissatisfaction with the current rule. Some disability rights advocates asserted that the Department's service animal requirements discriminate against passengers with mental and emotional disabilities by allowing airlines to require them to give advance notice and documentation that other individuals with disabilities are not required to give. There was also concern that a growing number of passengers are presenting untrained animals that are essentially just pets, and demanding the right to bring them onboard as service animals. Airlines reported to the Department a proliferation of websites offering certificates of psychological need for essentially any applicant who pays a small fee. The use of unusual species such as turkeys and pigs as service animals also caused unease not only with airlines but also with advocates. Some advocates worried that the use of unusual service animals would create distrust by flight crew and other passengers that could affect their ability to bring legitimate service animals onboard. Unfortunately, while the negotiated rulemaking process was highly informative and productive, the Department's efforts to find full consensus on these issues was not successful.

Since that time, the need for the Department to address these issues has only grown. Airlines have become increasingly concerned that untrained service animals pose a risk to the health and safety of its crewmembers and passengers. Carriers have reported increased incidents of misbehavior including urination, defecation, and biting. A few have established policies that they deem appropriate given their belief that there has been a significant increase in passengers bringing animals onboard that have not been properly trained as service animals. For example, one airline declared its intention to require, effective March 1, 2018, that all passengers traveling with service animals provide immunization records and/or veterinary health forms for their animal signed by a veterinarian at least 48 hours before the flight's scheduled departure time.[1] In addition, this airline specified that PSA and ESA users must also submit documentation that their animal has been trained to behave in a public setting as a condition for travel, and required that all passengers with service animals must check-in at the airport counter. The airline further states that it will evaluate on a case-by-case basis whether it will accept any animal that is not a dog or a cat for travel. Another airline has indicated that, effective March 1, 2018, it will require passengers who use PSAs or ESAs to provide, no later than 48 hours prior to travel, two separate forms in addition to the medical form already permitted under section 382.117(e). First, under the airline policy, the passenger must attest that he or she is not aware of any reason that the animal would pose a direct threat to the health or safety of others, and that the passenger accepts full legal responsibility for any misbehavior by the animal. Second, the passenger must provide a form, signed by a licensed veterinarian, providing information about the medical history of the animal.[2] Other airlines have informally expressed to the Department an interest in similarly amending their service animal policies.

Many disability advocates oppose these new policies for various reasons. They broadly contend that the Department should not tolerate these restrictions because they impose burdens that go beyond what the Department has indicated airlines may impose on passengers with disabilities. More specifically, they contend that the inconvenience and expense of providing veterinary forms outweigh their limited value. They note that whether an animal poses a direct threat to the health or safety of others should be assessed on an individualized, real-time basis, rather than through a general requirement that applies to all service animals. Advocates have also pointed out to the Department that a 48 hours' advance notice requirement prevents passengers from traveling in the event of an emergency. In addition, advocates assert that requiring passengers to check-in at the ticket counter is burdensome, particularly in an era where many passengers skip the ticket counter and proceed directly to the gate because they have checked in online. PSA users further contend that it is discriminatory to apply greater restrictions to PSAs than are applied to other service animals. More generally, advocates have expressed a concern that passengers with disabilities may be subject to a shifting patchwork of carrier policies.

Advance Notice of Proposed Rulemaking

Today, the Department issued an advance notice of proposed rulemaking (ANPRM) in response to concerns expressed by the stakeholders about the need for a change in the Department's service animal requirements. The ANPRM solicits comments on ways to ensure that individuals with disabilities can continue using their service animals while deterring the fraudulent use of other animals not qualified as service animals and ensuring that animals that are not trained to behave properly in the public are not accepted for transport. Because the rulemaking process can be lengthy, the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office), within the Office of the General Counsel, is issuing this statement to apprise the public of its intended enforcement focus with respect to transportation of service animals in the cabin until the service animal requirements are revised.

Interim Statement of Enforcement Office Priorities

The Enforcement Office has the authority to pursue or not to pursue enforcement action against airlines for not complying with the ACAA and the Department's implementing regulation. Given that the service animal issue is currently the subject of an open rulemaking, the Enforcement Office will

[1] On February 22, 2018, that airline changed its policy so it no longer required all service animal users to provide immunization records/and or veterinary health forms.

[2] Among other data, the veterinarian form must include the type/breed/weight of the animal, the date of the animal's last rabies vaccine, and a statement that at the time of the animal's last physical examination, the animal appeared to be free of infectious or contagious diseases that would endanger other animals or public health. The veterinarian must also relay information from the animal's owner regarding whether the animal has injured or attacked any person.

An earlier version of this airline's policy would have required the veterinarian to directly attest that the animal's behavior would not pose a direct threat onboard the aircraft. The American Veterinary Medical Association (AVMA) has raised concerns with the Department about airlines' service animal forms, to the extent that they would require veterinarians to predict or certify that an animal will behave appropriately onboard an aircraft. The AVMA noted that veterinarians generally rely on reports from the animal's owner and on their direct observations of the animal during a physical examination. The AVMA explained to the Department, however, that veterinarians cannot guarantee the behavior of an animal, particularly in a new environment like an aircraft. The AVMA emphasized to the Department that expanding the scope of the veterinary form beyond the health status of the animal and behavioral information of the animal based on owner reports or the veterinarian's observations could lead to refusals by veterinarians to fill out these forms, which would result in more service animals being denied air transportation.

focus its enforcement on clear violations of the current rule that have the potential to adversely impact the largest number of persons.[3]

Service Animals—Species and Number

The Enforcement Office intends to exercise its enforcement discretion by focusing its resources on ensuring that U.S. carriers continue to accept the most commonly used service animals (*i.e.,* dogs, cats, and miniature horses) for travel. While the Enforcement Office will focus on ensuring the transport of commonly used service animals such as dogs, cats and miniature horses by U.S. carriers, it may take enforcement action against U.S. carriers for failing to transport other service animals on a case-by-case basis. Airlines are expected to continue to comply with the existing service animal requirement which allows U.S. airlines to deny transport only to certain unusual service animals such as snakes, other reptiles, ferrets, rodents and spiders. The Enforcement Office believes that the public interest will be better served by this exercise of its enforcement discretion because dogs, cats, and miniature horses are the most commonly used service animals.

The Department's service animal regulation does not indicate whether airlines must allow passengers to travel with more than one service animal. In the past, the Enforcement Office has informed airlines that they will not be subject to enforcement action if they limit passengers to transporting three service animals. The Enforcement Office continues to recognize that a passenger may require more than one task trained service animal. Multiple task trained service animals may be needed to the extent that they are trained to perform different tasks, or in cases where an individual trained service animal must rest and cannot perform tasks for the passenger for extended periods. On the other hand, it is less clear that passengers require more than one ESA for travel or at the passenger's destination. Accordingly, as a matter of discretion, the Enforcement Office does not intend to take action if airlines limit passengers to transporting one ESA. Additionally, the Enforcement Office does not intend to take action if airlines limit passengers to transporting a total of three service animals.

[3] To the extent that this interim statement of enforcement priorities conflicts with the Enforcement Office's 2009 Frequently Asked Questions guidance document (*https://www.transportation.gov/airconsumer/frequently-asked-questions-may-13-2009*), this more recent document will control.

Advance Notice

The Enforcement Office plans to use its resources to ensure that airlines are not improperly requiring passengers with service animals to provide advance notice prior to travel. Under existing DOT rules, carriers generally may not require advance notice for passengers with disabilities, unless the rule specifically permits advance notice. 14 CFR 382.27(a). Carriers may require advance notice for passengers traveling with PSAs or ESAs, or for any service animal where the flight segment is scheduled to take 8 hours or more, but only with regard to the animal's need to relieve itself during the flight. 14 CFR 382.27(c). Thus, under existing rules, carriers may not otherwise require advance notice for passengers traveling with service animals (*e.g.,* seeing eye dogs) other than ESAs or PSAs unless the flight segment is 8 hours or more. Requiring advance notice for service animals outside of these specific circumstances violates the Department's regulation and may significantly harm passengers with disabilities as it prevents them from making last minute travel plans that may be necessary for work or family emergencies.

Proof That an Animal is a Service Animal

The Department's service animal regulation requires airlines to accept the following as proof of a service animal's status: Identification cards, other written documentation, presence of harnesses, tags, or the credible verbal assurances of a qualified individual with a disability using the animal. 14 CFR 382.117(d). Airlines have pointed out to the Department that accepting identification cards, harnesses, or tags as the sole evidence that an animal is a service animal is problematic because service animal paraphernalia are sold online and may be obtained by unscrupulous individuals so their pets can fly in the aircraft cabin as service animals. However, the Department's disability regulation makes clear that these protections are for individuals with disabilities. See 14 CFR 382.1 and 382.3. When deciding to accept an animal as a service animal, airlines must determine both that the passenger is an individual with a disability and that the animal is a service animal. See 73 FR 27614, 27658. If a passenger's status as an individual with a disability is unclear (for example, if the disability is not clearly visible), then the airline personnel may ask questions about the passenger's need for a service animal. For example, airlines may ask ''how does your animal assist you with your disability?'' See 73 FR 27614, 27660. A credible response to this question would establish both that the passenger is an individual with a disability and that the animal is a service animal. While airlines are required to accept items such as vests and harnesses as evidence of a service animal's status, it would be reasonable for airlines to also request the passenger's credible verbal assurance to ensure the passenger is an individual with a disability who has a need for that service animal.

Check-In Requirements

Airlines generally allow passengers to check-in electronically before arriving at the airport. DOT prohibits airlines from denying an individual with a disability the benefit of any air transportation or related services that are available to other persons. 14 CFR 382.11. Among the many benefits of electronic check-in is the ability to skip the ticket counter and proceed directly to the gate. One of the reasons that the Department requires airlines to make its websites accessible is to enable individuals with disabilities to check-in electronically like other travelers. See 14 CFR 382.43. For these reasons, and considering the prohibition against discrimination in the ACAA, the Enforcement Office intends to act should an airline require that a passenger with a service animal check-in at the ticket counter, thereby denying those passengers the same benefits that are available to other passengers.

Documentation

As noted above, carriers may refuse transportation to any service animal that displays behavior evidencing a lack of training in a public space. For example, an untrained animal may bark or growl at other persons on the aircraft, bite or jump on people, or urinate or defecate in the cabin. The Department's disability rule does not clearly indicate how carriers determine whether a service animal poses a direct threat to the health or safety of others. The provision in the current regulation that allows airlines to deny boarding to an animal that poses a direct threat to the health or safety of others will be further clarified through the rulemaking process. As described previously, certain carriers have indicated that they need veterinary forms or behavioral attestations to determine whether a service animal, particularly a PSA and/or an ESA poses a direct threat. At the same time, we understand the disability advocates' view that these policies violate the Department's disability regulation because they impose new requirements on passengers with disabilities.

The Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior so long as the documentation is not required for passengers seeking to travel with a service animal that is not an ESA or PSA. Under section 382.27, carriers may not require advance notice to obtain services or accommodations, except under circumstances specifically permitted by rule. As noted above, however, under DOT's rule, airlines are permitted to ask for up to 48 hours' advance notice for passengers using PSAs and ESAs. 14 CFR 382.27(c)(8). The Department permits airlines to require 48 hours' advance notice of a passenger wishing to travel with an ESA or PSA in order to provide the carrier the necessary time to assess the passenger's documentation.[4] As such, the Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior for passengers seeking to travel with an ESA or PSA. At present, the Enforcement Office is not aware of any airline requesting information from ESA or PSA users that would make travel with those animals unduly burdensome or effectively impossible (*e.g.,* requiring veterinarians to directly guarantee or certify that an animal will behave appropriately onboard an aircraft). The Enforcement Office will continue to monitor the types of information sought by ESA and PSA users, however.

Containing Emotional Support Animals in the Cabin

Part 382 does not clearly specify whether or how airlines may restrict the movement of service animals in the cabin. The FAA determined as a matter of aircraft safety that passengers may carry service animals in their lap during all stages of flight, so long as the animal does not weigh more than a lap child (*i.e.,* a child that has not reached his or her second birthday).[5] The Enforcement Office then interpreted section 382.117 as prohibiting an airline from requiring service animals to be harnessed in the cabin, and requiring airlines to transport service animals in the cabin free of restraining devices while accompanying users at their seats in accordance with applicable safety requirements since there appeared to be no safety reason to do so.[6]

However, because the regulatory text is not explicitly clear on this topic and the FAA order does not address the behavior of service animals, the Enforcement Office now intends to exercise its enforcement discretion with respect to carriers that restrict the movement of ESAs in the cabin. We recognize the possibility that ESAs may pose greater in-cabin safety risks because they may not have undergone the same level of training as other service animals (including PSAs). Accordingly, at this time, the Enforcement Office will not take action against carriers that impose reasonable restrictions on the movement of ESAs in the cabin so long as the reason for the restriction is concern for the safety of other passengers and crew. Such restrictions may include requiring, where appropriate for the animal's size, that the animal be placed in a pet carrier, the animal stay on the floor at the passenger's feet, or requiring the animal to be on a leash or tether.

Request for Comments

This interim statement of enforcement priorities reflects the Department's current view of where to focus its limited resources with respect to service animal issues, given airlines recently announced service animal policies. In appropriate cases, the Enforcement Office may take enforcement action against carriers for violations that are not described in this interim statement. The Department solicits comment on the effects and implications of adopting these enforcement priorities. The comment period will remain open for 15 days after publication in the **Federal Register**. Late-received comments will be considered to the extent practicable. After the close of the comment period, the Department will issue a final statement of enforcement priorities. Comments relating to amending the Department's disability regulation should be directed to the ANPRM docket: DOT–OST–2018–0067.

Issued this 9th day of May, 2018, in Washington, DC.

Blane A. Workie,

Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.

[FR Doc. 2018–10814 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–9X–P

[4] See 73 FR 27614, 27636 (May 13, 2008).

[5] FAA Order 8400.10, FSAT 04–01A (2004) at *http://fsims.faa.gov/WDocs/Bulletins/Information%20Bulletins/Air%20Transportation%20Info%20Bulletins%20(FSAT)/FSAT0401A.htm.*

[6] See letter dated March 22, 2010 from the Department's Office of Aviation Enforcement and Proceedings stating that the office ''has long interpreted this provision to mean that, in general, service animals should be transported in the cabin free of restraining devices while accompanying users at their seats in accordance with applicable safety requirements, and prohibits carriers from otherwise mandating conditions or restrictions not stated in section 382.117.'' DOT–OST–2008–0272–0091 at *https://www.regulations.gov/document?D=DOT-OST-2008-0272-0091.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM18–7–000; Order No. 846]

Withdrawal of Pleadings

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a more accurate title of ''Withdrawal of pleadings (Rule 216),'' for Rule 216 of the Commission's Rules of Practice and Procedure. The Commission also clarifies the text of the Rule.

DATES: This rule is effective June 22, 2018.

FOR FURTHER INFORMATION CONTACT: Vince Mareino, 888 First Street NE, Washington, DC 20426, (202) 502–6167, *Vince.Mareino@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Order No. 846

Final Rule

(Issued May 17, 2018)

1. In this Final Rule, as proposed in its Notice of Proposed Rulemaking,[1] the Commission revises the title and text of Rule 216 of the Commission's Rules of Practice and Procedure, 18 CFR 385.216. The Commission adopts the more accurate title of ''Withdrawal of pleadings (Rule 216).'' The Commission also clarifies the text of the Rule.

I. Discussion

2. The Commission shall implement two changes to Rule 216. First, the preexisting title may confuse some readers by implying that Rule 216 governs the withdrawal of tariff or rate filings, which are instead governed by separate regulations.[2] Thus, the Commission revises the title from ''Withdrawal of pleadings and tariff or

[1] *Withdrawal of Pleadings,* 83 FR 8019 (February 23, 2018), 162 FERC ¶ 61,111 (2018) (NOPR).

[2] *E.g.,* 18 CFR 35.17, 154.205, 284.123, 341.13 (2017).

rate filings (Rule 216)'' to ''Withdrawal of pleadings (Rule 216).''

3. Second, the Commission revises the first sentence of Rule 216(a) to read, ''Any person may seek to withdraw its pleading by filing a notice of withdrawal.'' This change clarifies that it is the person who has submitted a pleading that may withdraw that pleading. The Commission also makes a conforming change, to refer to ''person'' rather than ''party,'' in Rule 216(c).

4. The Commission received one comment, from A. Hewitt Rose III, an attorney who practices before the Commission. Mr. Rose generally supports the proposed rule but objects to the use of the word ''its'' in the phrase, ''Any person may seek to withdraw its pleading by filing a notice of withdrawal.'' Mr. Rose argues that ''it'' is not necessarily the correct pronoun for the word ''person,'' which refers not only to legal entities but also to natural persons. Mr. Rose notes, however, that the best replacement pronoun, ''their,'' is not universally recognized as the correct pronoun for a singular subject. Therefore, Mr. Rose proposes adjusting the sentence so that ''it'' refers to the pleading, not the person: ''Any person that filed a pleading may seek to withdraw it by filing a notice of withdrawal.'' We accept Mr. Rose's proposal, which serves the Commission's goal of developing a clear and concise set of Rules of Practice and Procedure, and we revise Rule 216(a) accordingly.

II. Regulatory Requirements

A. Information Collection Statement

5. Review by the Office of Management and Budget, pursuant to section 3507(d) of the Paperwork Reduction Act of 1995, is not required since this Final Rule does not contain new or modified information collection or recordkeeping requirements.

B. Environmental Analysis

6. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[3] Section 380.4(a)(1) of the Commission's regulations exempts certain actions from the requirement that an Environmental Analysis or Environmental Impact Statement be prepared.[4] Included is an exemption for procedural actions. As this Final Rule falls within that exemption, issuance of the Final Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act, and, thus, does not require an Environmental Analysis or Environmental Impact Statement.

C. Regulatory Flexibility Act Analysis

7. The Regulatory Flexibility Act of 1980 (RFA)[5] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. This Final Rule concerns clarifications to agency procedure. The Commission certifies that the proposed clarifications will not have a significant economic impact upon a substantial number of small entities in Commission proceedings and, therefore, an analysis under the RFA is not required.

D. Document Availability

8. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

9. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

10. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at 202–502–8371, TTY 202–502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

E. Effective Date and Congressional Notification

11. These regulations are effective June 22, 2018. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 385

Electric power rates, Electric power, Reporting and recordkeeping requirements.

By the Commission.

Issued: May 17, 2018.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission hereby amends part 385, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 2. In § 385.216, revise the section heading and paragraphs (a) and (c) to read as follows:

§ 385.216 Withdrawal of pleadings (Rule 216).

* * * * *

(a) *Filing.* Any person that filed a pleading may seek to withdraw it by filing a notice of withdrawal. The procedures provided in this section do not apply to withdrawals of tariff or rate filings, which may be withdrawn only as provided in the regulations under this chapter.

* * * * *

(c) *Conditional withdrawal.* In order to prevent prejudice to other participants, a decisional authority may, on motion or otherwise, condition the withdrawal of any pleading upon a requirement that the withdrawing person leave material in the record or otherwise make material available to other participants.

[FR Doc. 2018–11045 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

[3] *Regulations Implementing National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[4] 18 CFR 380.4(a)(1) (2017).

[5] 5 U.S.C. 601–12 (2012).

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that LCAC 1 through 91 and 100 through 173 are vessels of the Navy which, due to their special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with their special functions as naval ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective May 23, 2018 and is applicable beginning April 9, 2018.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Kyle Fralick, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that LCAC 1 Through 91 and 100 through 173 are vessels of the Navy which, due to their special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with their special functions as naval ships: Annex I paragraph 2 (a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex I paragraph 2(f)(i) pertaining to placement of the masthead light above or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(b), pertaining to the locations of the sidelights; Rule 27(a) and Annex I, paragraph 2(i)(i), pertaining to the vertical placement of the not-under-command lights; and Annex I, paragraph 9(b)(i), pertaining to the visibility of the all-round lights. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table One by removing the two entries for LCAC (class) and adding three entries in their place;

■ b. In Table Two by removing the two entries for LCAC (class) and adding three entries in their place;

■ c. By revising paragraph 9 under the heading ''Table Four''; and

■ d. In paragraph 16 table, under the heading ''Table Four'', by adding an entry for LCAC 100 through 173 in alphabetical order.

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
* *	* * *	* *
LCAC (class)	LCAC 1 through LCAC 91	6.51
LCAC (class)	LCAC 1 through LCAC 91	7.84 (Temp.).
LCAC (class)	LCAC 100 through LCAC 173	7.7.
* *	* * *	* *

* * * * *

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K) Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor lights number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g) , Annex I	Side lights, distance forward of masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
*	*	*		*	*		*	*	
LCAC Class	LCAC 1 through LCAC 91.	5.26 (Perm.)	1.5						1.5
LCAC Class	LCAC 1 through LCAC 91.	3.98 (Temp.)	1.5						1.5
LCAC Class	LCAC 100 through 173.	5.2						1.8	
*	*	*		*	*		*	*	

* * * * *

9. On LCAC 1 through 91 amphibious vessels, full compliance with Rules 21(a), 21(b) and Annex I, section 2(a)(i), 72 COLREGS, cannot be obtained. Tables One and Two of section 706.2 provide the dimensions of closest possible compliance of LCAC 1 through 91 amphibious vessels with the aforementioned rules. The following paragraph details the specific dimensions of closest possible compliance and the basis for certification by the Secretary of the Navy that full compliance with the aforementioned rules is not obtainable.

On LCAC 1 through 91 amphibious vessels, there are permanent and temporary masts. The permanent masthead light is located 5.26 meters athwartship to port of centerline 5.49 meters above the hull. The temporary masthead light is located 3.98 meters athwartship to starboard of centerline, 4.16 meters in height above the hull. The temporary masthead light is displayed in lieu of the permanent masthead light only when LCAC 1 through 91 amphibious vessels are operating with amphibious assault vessels. When operating in this mode, the sidelights are displayed at a height greater than three-quarters of the height of the temporary masthead light. The sidelights are located on top of the port and starboard deckhouses to permit the required unobstructed arcs of visibility and are 3.28 meters above the hull, resulting in a vertical separation between those lights and the temporary masthead light of 0.78 meters. Because of the minimal vertical separation between the sidelights and the temporary masthead light and the luminous intensity of the temporary light, the sidelights on these vessels may not be distinguishable by the naked eye at the 2-mil range required by Rule 22(b).

The arc of visibility of the temporary masthead light required by rule 21(a) may be obstructed at the following angles relative to the LCAC(1 through 91)'s heading, from 37.00 degrees thru 90.00 degrees up to a distance of 112.5 meters from the craft and from 267.75 degrees thru 277.25 degrees.

On LCAC 100 through 173 amphibious vessels, full compliance with Annex I, Paragraphs 2(i)(i) and 9(b)(i), 72 COLREGS, cannot be obtained. The upper and lower Not Under Command lights, located above the command module, are spaced 1.0 meters (3.3 feet) apart with the lower light at a height of 3.3 meters (10.8 feet) above the hull. The lower Not Under Command Light has angles of obstruction from 83.0 to 111.0 degrees, 137.0 to 145.5 degrees, 158.7 to 177.3 degrees, 171.7 to 184.1 degrees, 197.9 to 209.5 degrees, 230.5 to 240.5 degrees, and 244.9 to 256.5 degrees.

* * * * *

16. * * *

Vessel	Number	Obstruction angle relative ship's heading
* *	* * *	* *
LCAC (class)	LCAC 100 through LCAC 173	83 thru 84 [degrees].
* *	* * *	* *

* * * * *

Approved: April 9, 2018.

A.S. Janin,

Captain, USN, JAGC, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

Dated: April 9, 2018.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–11064 Filed 5–22–18; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0270]

RIN 1625–AA00

Safety Zone; North Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the North Atlantic Ocean adjacent to Ocean City, MD. This action is necessary to provide for the safety of life on the navigable waters during an air show on May 23, 2018. This action will prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 1:30 p.m. to 4 p.m. on May 23, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0270 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On February 21, 2018, the Town of Ocean City, MD notified the Coast Guard that from 2 p.m. to 3:30 p.m. on May 23, 2018, it will be conducting the Canadian Snowbirds Air Show Featurette above the North Atlantic Ocean adjacent to Ocean City, MD. In response, on April 16, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; North Atlantic Ocean, Ocean City, MD'' (83 FR 16265). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 16, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with an air show.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with this May 23, 2018 air show will be a safety concern for anyone operating within certain waters of the North Atlantic Ocean adjacent to Ocean City, MD. The purpose of this rule is to ensure the safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 16, 2018. Therefore, there are no substantive changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 1:30 p.m. to 4 p.m. on May 23, 2018. The safety zone will cover all waters of the North Atlantic Ocean, within an area bounded by the following coordinates: commencing at a point near the shoreline at latitude 38°20′33.3″ N, longitude 075°04′37.7″ W, thence eastward to latitude 38°20′24.9″ N, longitude 075°04′01.5″ W, thence southward to latitude 38°19′18.4″ N, longitude 075°04′26.9″ W, thence westward to latitude 38°19′27.0″ N, longitude 075°05′03.0″ W, thence northward to point of origin, located adjacent to Ocean City, MD. The duration of the zone is intended to ensure the safety of life on these navigable waters before, during, and after the scheduled 2 p.m. air show. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which would impact a small designated area for less than 3 hours during a Wednesday before Memorial Day when vessel traffic in the North Atlantic Ocean is normally low. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine band radio channel 16 to provide information about the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than three hours that would prohibit vessel movement within a portion of the North Atlantic Ocean. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0270 to read as follows:

§ 165.T05–0270 Safety Zone; North Atlantic Ocean, Ocean City, MD

(a) *Location.* The following area is a safety zone: All waters of the North Atlantic Ocean, within an area bounded by the following coordinates: Commencing at a point near the shoreline at latitude 38°20′33.3″ N, longitude 075°04′37.7″ W, thence eastward to latitude 38°20′24.9″ N, longitude 075°04′01.5″ W, thence southward to latitude 38°19′18.4″ N, longitude 075°04′26.9″ W, thence westward to latitude 38°19′27.0″ N, longitude 075°05′03.0″ W, thence northward to point of origin, located adjacent to Ocean City, MD. All coordinates refer to datum NAD 1983.

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

(1) *Captain of the Port Maryland-National Capital Region* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcement of the safety zone described in paragraph (a) of this section.

(c) *Regulations.* The general safety zone regulations found in 33 CFR part 165, subpart C apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone are to obtain authorization from the Captain of the Port Maryland-National Capital Region or designated representative. To request permission to transit the area, the Captain of the Port Maryland-National Capital Region and or designated representatives can be contacted at telephone number 410–576–2693 or on marine band radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted to enter the safety zone, all persons and vessels must comply with the instructions of the Captain of the Port Maryland-National Capital Region or designated representative and proceed as directed while within the zone.

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

(d) *Enforcement period.* This section will be enforced from 1:30 p.m. to 4 p.m. on May 23, 2018.

Dated: May 18, 2018.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2018–11072 Filed 5–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0159; FXFR13350700640–167–FF07J00000; FBMS#4500096963]

RIN 1018–BB22

Subsistence Management Regulations for Public Lands in Alaska—Applicability and Scope; Tongass National Forest Submerged Lands

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. District Court for Alaska in its October 17, 2011, order in *Peratrovich et al.* v. *United States and the State of Alaska,* 3:92–cv–0734–HRH (D. Alaska), enjoined the United States ''to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) with respect to submerged public lands within Tongass National Forest'' and directed entry of judgment. To comply with the order, the Federal Subsistence Board (Board) initiated a regulatory proceeding to identify those submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and, therefore, remain Federal public lands subject to the subsistence provisions of ANILCA. Following the Court's decision, the Bureau of Land Management (BLM) and the USDA–Forest Service (USDA–FS) started a review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. In April and October of 2015, BLM submitted initial lists of submerged public lands to the Board. This rule adds those submerged parcels to the subsistence regulations to ensure compliance with the Court order. Additional listings will be published as BLM and the USDA–FS continue their review of pre-statehood withdrawals.

DATES: This rule is effective June 22, 2018.

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (*https://www.doi.gov/subsistence*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Jurisdictional Background and Perspective

The *Peratrovich* case dates back to 1992 and has a long and involved procedural history. The plaintiffs in that litigation raised the question of which marine waters in the Tongass National Forest, if any, are subject to the jurisdiction of the Federal Subsistence Management Program. In its May 31, 2011, order, the U.S. District Court for Alaska (Court) stated that ''it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title.'' It also stated that, if such title exists, it ''creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA.''

Most of the marine waters within the Tongass National Forest were not initially identified in the regulations as public lands subject to the subsistence priority based upon a determination that the submerged lands were State lands, and later through reliance upon a disclaimer of interest filed by the United States in *Alaska* v. *United States,* No. 128 Orig., 546 U.S. 413 (2006). In that case, the State of Alaska had sought to quiet title to all lands underlying marine waters in southeast Alaska, which includes most of the Tongass National Forest. Ultimately, the United States disclaimed ownership to most of the submerged lands in the Tongass National Forest. The Supreme Court accepted the disclaimer by the United States to title to the marine waters within the Tongass National Forest, excepting from that disclaimer several

classes of submerged public lands that generally involve small tracts. *Alaska* v. *United States,* 546 U.S. at 415.

When the United States took over the subsistence program in Alaska in 1990, the Departments of the Interior and Agriculture stated in response to comments on the scope of the program during promulgation of the interim regulations that ''the United States generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands'' (55 FR 27115; June 29, 1990). That position was changed in 1999 when the subsistence priority was extended to waters subject to a Federal reserved water right following the *Katie John* litigation. The Board identified certain submerged marine lands that did not pass to the State and, therefore, where the subsistence priority applied. However, the Board did not attempt to identify each and every small parcel of submerged public lands and thereby marine water possibly subject to the Federal Subsistence Management Program because of the potentially overwhelming administrative burden. Instead the Board invited the public to petition to have submerged marine lands included. Over the years, several small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority.

In its May 31, 2011, order, the Court stated that the petition process was not sufficient and found that ''concerns about costs and management problems simply cannot trump the congressional policy that the subsistence lifestyle of rural Alaskans be preserved as to public lands.'' The Court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden ''necessitated by the 'complicated regulatory scheme' which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA.'' The Court then ''enjoined'' the United States ''to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest'' and directed entry of judgment.

The BLM and USDA–FS started a time- and resource-consuming review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. Both agencies are reviewing their records to identify dock sites, log transfer sites, and other areas that may not have passed to the State at statehood. The review process is ongoing and expected to take quite some time.

Current Rule

The Departments published a proposed rule on June 8, 2016 (81 FR 36836), to amend the applicability and scope section of subpart A of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a comment period, which closed on August 8, 2016, and also announced public meetings to be held in several different locations throughout the state between September 28 and November 2, 2016. The Departments advertised the proposed rule by mail, email, web page, social media, radio, and newspaper, and comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2015–0159. During that period, the Councils met and, in addition to other Council business, received comments from the public and developed recommendations to the Board. The Councils had an opportunity to review the proposed rule and make recommendations for the final rule as described in more detail below.

The Board met via a public teleconference on May 25, 2017. All briefings and documents presented to the Board were available to the public on the Program's web page and was advertised by mail, email, web page, social media, radio, and newspaper. After a briefing and deliberation the Board decided on the following recommendation to the Secretaries: ''The Federal Subsistence Board recommends to the Secretaries that the lands listed in the proposed rule of June 8, 2016 (81 FR 36836) be included in the Subsistence Management Regulations for Public Lands in Alaska (36 CFR 242 and 50 CFR 100) for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act.''

These final regulations reflect the Board's recommendation to the Secretaries after review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Summary of Comments Received and Responses

The Board received one public comment from the State of Alaska. They did not object to the new listings, however they did claim ownership over the Makhnati Island submerged lands. We conferred with the Bureau of Land Management regarding the scope of patents 50–68–0194 and 50–90–0276. Neither of the patents includes the submerged lands that are the subject of this rule. Specifically, patent number 50–68–0194 includes Lot 82 of U.S. Survey 1763, which encompasses the upland area of Makhnati Island. However, the patent does not include either the adjacent submerged lands or the fill lands that connect Makhnati Island to the rest of the chain of islands. Similarly, patent 50–90–0267 includes lands surveyed on Japonski Island in U.S. Survey 1496, but it does not grant ownership to the State of any adjacent submerged lands.

The Southeast Alaska Regional Advisory Council had no objections to these lands coming under Federal subsistence jurisdiction. They did comment that they felt they could not offer constructive discussion or provide a valuable recommendation; they addressed the desire for maps to be produced on each of these parcels, asked if the lands were aids to navigation, were the lands fully or partially submerged, and if there was a Federal interest in these lands. Responses will have to be researched since it was not provided in the listings provided by BLM. The North Slope and Yukon-Kuskokwim Regional Advisory Councils deferred to the Southeast Council. The Northwest Arctic Regional Advisory Council approved as written in the proposed rule. The Kodiak, Southcentral Alaska, Eastern Interior Alaska, Seward Peninsula, and Bristol Bay Regional Advisory Councils had no comments and took no action.

Tribal consultation was offered statewide. No tribal entity requested specific consultation and no comments were offered via correspondence, during public hearings, or during consultations on different issues.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional

public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 25 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	''Subsistence Management Regulations for Public Lands in Alaska; Final Rule'' was published in the **Federal Register**.
64 FR 1276	January 8, 1999	Final Rule	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Federal Subsistence Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Advisory Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Because no adverse comments were received on the direct final rule (67 FR 30559), the direct final rule was adopted.
69 FR 60957	October 14, 2004	Final Rule	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of ''regulatory year'' from subpart A to subpart D of the regulations.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997	August 24, 2006	Final Rule	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688	May 7, 2007	Final Rule	Revised nonrural determinations.
75 FR 63088	October 14, 2010	Final Rule	Amended the regulations for accepting and addressing special action requests and the role of the Regional Advisory Councils in the process.

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation	Date of publication	Category	Details
76 FR 56109	September 12, 2011	Final Rule	Revised the composition of the Federal Subsistence Board by expanding the Board by two public members who possess personal knowledge of and direct experience with subsistence uses in rural Alaska.
77 FR 12477	March 1, 2012	Final Rule	Extended the compliance date for the final rule (72 FR 25688) that revised nonrural determinations until the Secretarial program review is complete or in 5 years, whichever comes first.
80 FR 68249	November 4, 2015	Final Rule	Revised the nonrural determination process and allowed the Federal Subsistence Board to define which communities and areas are nonrural.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires June 30, 2019.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The

implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On January 10, 2017, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart A—General Provisions

■ 2. In subpart A of 36 CFR part 242 and 50 CFR part 100, amend § ____.3 as follows:

■ a. In paragraph (a), remove the words ''Title VIII or ANILCA'' and add in their place the words ''Title VIII of ANILCA'';

■ b. In paragraph (b)(1)(iii), remove the word ''A'' and add in its place the word ''All'';

■ c. In paragraph (b)(2), remove ''70 10′'' and add in its place ''70°10′'' and remove ''145 51′'' and add in its place ''145°51′'';

■ d. In paragraph (b)(3), remove the word ''cape'' and add in its place the word ''Cape'' and remove ''161 46′'' and add in its place ''161°46′''; and

■ e. Revise paragraph (b)(5).

The revision reads as follows:

§ ____.3 Applicability and scope.

* * * * *

(b) * * *

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S 58° W, 2,500 feet, to the southern point of Nepovorotni Rocks; S 83° W, 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N 6° W, 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N 24° E, 3,000 feet, to a point, 57°03′15″ north latitude, 134°23′07″ west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S 60° E, 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S 45° E. along the main channel approximately 20.00 chains; thence S 45° W, approximately 9.00 chains to the southeastern point of Aleutski Island; thence S 79° W, approximately 40.00 chains to the southern point of Fruit Island; thence N 60° W, approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No. 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit

islands and a number of smaller unnamed islands.

(ii) Tongass National Forest:

(A) Beacon Point, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 57 south, 79 east, CRM, SEC 8, U.S. Survey No. 1604. The point begins on the low-water line at N 63° W, true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true East 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to point of the beginning (Approx. Long. 133°00′ W, Lat. 56°56¼′ N).

(B) Bushy Island and Snow Passage are shown on the U.S. Coast and Geodetic Survey Chart, labeled No. 8160—Sheet No. 12. The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about ¼ nautical miles and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location—N 60° W, true; thence S 60° E, true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of the beginning, including all adjacent rocks and reefs not covered at low water (Approx. Long. 132°58′ W, Lat. 56°16½′ N).

(C) Cape Strait, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E, true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence north-westerly and westerly, following the windings of the low-water line to the point of beginning (Approx. Long. 133°05′ W, Lat. 57°00′ N).

(D) Point Colpoys and Sumner Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Prince of Wales Island—Sheet No. 12. The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about 1¼ nautical miles east and South and 75° East, respectively, from the aforementioned point (Approx. Long. 133°12′ W, Lat. 56°20′ N).

(E) Vank Island and Stikine Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648. This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due North from the center of the concrete pier upon which the structure for the light is erected (Approx. Long. 132°35′ W, Lat. 56°27′ N).

(F) High Point, and Woronkofski Island, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. The location begins at a point on low water at the head of the first bight easterly of the point and about ⅛ nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of the beginning (Approx. Long. 132°33′ W, Lat. 56°24′ N).

(G) Key Reef and Clarence Strait are shown on the U.S Coast and Geodetic Survey Chart No. 8160—Sheet No. 11. The reef lies 1¾ miles S. 80° E, true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water (Approx. Long. 132°50′ W, Lat. 56°10′ N).

(H) Low Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 22. The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S. 35° W, true 760 feet; thence N 800 feet and W 760 feet, more or less, to an intersection with the low-water line to the point of beginning (Approx. Long. 132°55½′ W, Lat. 56°27½′ N).

(I) McNamara Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 25. Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon— a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of the beginning (Approx. Long. 133°04′ W, Lat. 56°20′ N).

(J) Mountain Point and Wrangell Narrows, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 27. The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°57½′ W, Lat. 56°44′ N).

(K) Angle Point, Revillagigedo Channel, and Bold Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N 30° W, True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of the beginning (Approx. Long. 131°26′ W, Lat. 55°14′ N).

(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island are shown on the U.S Coast and Geodetic Survey Chart No. 8074—Sheet No. 29. The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shore line of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true East and approximately ¾ nautical miles; thence N 45° true East and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of the beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line (Approx. Long 132° W, Lat. 54°42′ N).

(M) Lewis Reef and Tongass Narrows are shown on the U.S Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off of Lewis

Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light (Approx. Long. 131°44½′ W, Lat. 55°22′25″ N).

(N) Lyman Point and Clarence Strait are shown on the U.S Coast and Geodetic Survey, Chart No. 8076—Sheet No. 8. The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet, more or less; thence following the winding of the low-water mark to place of beginning (Approx. Long. 132°18′ W, Lat. 35°35′ N).

(O) Narrow Point, Clarence Strait, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards off shore, bears south 30° true East; thence north 30° W, true 7,600 feet; thence N 60° E, 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of the beginning. The map includes all adjacent rocks not covered at low water (Approx. Long. 132°28′ W, Lat. 55°47½′ N).

(P) Niblack Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8102—Sheet No. 6, which is the same sheet used for Caamano Point. The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°07′ W, Lat. 55°33′ N).

(Q) Rosa Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water (Approx. Long. 131°48′ W, Lat. 55°24′ 15″ N).

(R) Ship Island and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as south, 8 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and ¼ mile off the shore of Cleveland Peninsula. The sheet includes all adjacent islets and rocks not connected to the main shore and not covered at low water (Approx. Long. 132°12′ W, Lat. 55°36′ N).

(S) Spire Island Reef and Revillagigedo Channel are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, SEC 19.The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier. See chart for ''Angle Pt.'' (Approx. Long 131°30′ W, Lat. 55°16′ N).

(T) Surprise Point and Nakat Inlet are shown on the U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1. The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets (Approx. Long. 130°44′ W, Lat. 54°49′ N).

(U) Caamano Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6. Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water (Approx. Long. 131°59′ W, Lat. 55°30′ N).

(V) Meyers Chuck and Clarence Strait, Alaska, are shown on the U.S. and Geodetic Survey Chart No. 8124—Sheet No. 26. The small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island (Approx. Long. 132°16′ W, Lat. 55°44½′ N).

(W) Round Island and Cordova Bay, Alaska, are shown on the U.S coast and Geodetic Survey Chart No. 8145—Sheet No. 36. The Southwestern Island of the group is about 700 yards

long, including off-lying rocks and reefs that are not covered at low water (Approx. Long. 132°30½′ W, Lat. 54°46 1/2′ N).

(X) Mary Island begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west ¾ mile, statute; thence due north to a low-water mark; thence following the winding of the low water to the place of the beginning (Approx. Long. 131°11′ 00″ W, Lat. 55°05′ 55″ N).

(Y) Tree Point starts a point of a low-water mark. The aforementioned point is southerly ½ mile from extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, ¾ mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of the beginning (Approx. Long. 130°57′ 44″ W, Lat. 54°48′ 27″ N).

* * * * *

Dated: April 20, 2018.

David E. Schmid,

Acting Regional Forester, USDA–Forest Service.

Dated: May 15, 2018.

David L. Bernhardt,

Deputy Secretary. Fish and Wildlife Service.

[FR Doc. 2018–10938 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–55–P; 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0035; FRL–9977–13]

Clopyralid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of clopyralid in or on multiple commodities which are identified and discussed later in this document. In addition, it removes certain previously established tolerances that are superseded by this final rule. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 23, 2018. Objections and requests for hearings must be received on or before July 23, 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–2017–0035, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, 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–2017–0035 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 23, 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–2017–0035, 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 June 8, 2017 (82 FR 26641) (FRL–9961–14), 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 6E8528) by IR–4 Project Headquarters, 500 College Road East, Suite 201W, Princeton, New Jersey 08540. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the herbicide, clopyralid, (3,6-dichloro-2-pyridinecarboxylic acid), in or on berry, low growing, subgroup 13–07G at 4.0 parts per million (ppm); berry, low growing, except strawberry, subgroup 13–07H at 4.0 ppm; *brassica,* leafy greens, subgroup 4–16B at 5.0 ppm; fruit, pome, group 11–10 at 0.05 ppm; fruit, stone, group 12–12 at 0.5 ppm; radish, roots at 0.3 ppm; stalk and stem vegetable subgroup 22A at 1.0 ppm; vegetable, *brassica,* head and stem, group 5–16 at 2.0 ppm; and vegetable, leaves of root and tuber, group 2 at 5.0 ppm. Additionally, upon establishment of the above new tolerances, the petitioner requests to amend 40 CFR 180.431 by removing the established tolerances for clopyralid in or on apple at 0.05 ppm, asparagus at 1.0 ppm, beet, garden, tops at 3.0 ppm, beet, sugar, tops at 3.0 ppm, *brassica,* head and stem, subgroup 5A at 2.0 ppm, *brassica,* leafy greens, subgroup 5B at 5.0 ppm, canola, seed at 3.0 ppm, cranberry at 4.0 ppm, fruit, stone, group 12 at 0.5 ppm, strawberry at 4.0 ppm, and turnip, greens at 4.0 ppm. That document referenced a summary of the petition prepared by Dow AgroSciences, the registrant, which is available in the docket, *http://www.regulations.gov.* One comment was received on the notice of filing. EPA's response to that comment is discussed in Unit IV.C.

Consistent with the authority in FFDCA 408(d)(4)(A)(i), EPA is issuing tolerances that vary from what the petitioner sought. The reasons for these changes are explained in Unit IV.D.

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 clopyralid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with clopyralid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their 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.

Clopyralid has low acute toxicity via the dermal, oral, and inhalation routes of exposure. It is not a dermal irritant or sensitizer, but it is a severe eye irritant in its acid form.

Toxicity was observed in the mouse after subchronic and chronic exposure and the rat and dog after chronic exposure, but consistent target organs were not identified. In dogs, reductions in red blood cell parameters, increased liver weight, and vacuolated adrenal cortical cells were observed, with skin lesions and clinical chemistry changes at the highest dose. In rats, stomach lesions were observed at the lowest-observed-adverse-effects level (LOAEL), and decreased body weight was observed at the high dose. In mice, the only observed effects were decreased body weight/body weight gain. No systemic toxicity was seen in a rabbit 21-day dermal toxicity study. The available toxicology studies did not indicate the potential for neurotoxicity, immunotoxicity or reproductive toxicity.

The available database does not show evidence of increased qualitative or quantitative pre- and/or post-natal susceptibility in the available developmental or 2-generation reproduction toxicity studies. No developmental toxicity was observed in the rat at doses that caused maternal mortality. In the developmental study in the rabbit, decreased fetal body weight and hydrocephalus were observed, but only at a dose that caused significant maternal toxicity, including mortality, clinical signs of toxicity, and gastric mucosal lesions. Reproductive toxicity was not observed in the rat, but mean pup weights (day 28) were reduced, and relative pup liver weights were increased at doses that caused parental toxicity (decreased body weight/weight gain and food consumption; gastric lesions).

There were no direct clinical or histopathological indications of neurotoxicity in the available studies at doses up to or exceeding the limit dose. Hydrocephalus was observed in the young in the rabbit developmental study, but only in the presence of significant maternal toxicity, including a high rate of mortality.

Clopyralid is classified as ''not likely to be carcinogenic to humans,'' based on the lack of treatment-related tumors in the rat and mouse carcinogenicity studies, and negative results of the genotoxicity assays.

Specific information on the studies received and the nature of the adverse effects caused by clopyralid as well as the no-observed-adverse-effect-level (NOAEL) and LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document SUBJECT: Clopyralid. Aggregate Human Health Risk Assessment to Support Proposed New Uses on Pome Fruit Group 11–10 and Radish Roots, Along with Various Crop Group/Subgroup Conversions and Expansions at pages 31–35 in docket ID number EPA–HQ–OPP–2017–0035.

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 the NOAEL and the LOAEL are identified. 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 clopyralid used for human risk assessment is shown in Table 1 of this unit.

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Chronic dietary (All populations)	NOAEL= 15 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.15 mg/kg/day cPAD = 0.15 mg/kg/day	2-Year Combined Chronic Toxicity-Carcinogenicity (oral)—rat. LOAEL = 150 mg/kg/day, based on increased epithelial hyperplasia and thickening of the limiting ridge of the stomach in both sexes.
Incidental oral short-term (1 to 30 days)	NOAEL= 75 mg/kg/day ..... UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential LOC for MOE = <100.	Developmental Toxicity (oral)—rat. Maternal LOAEL = 250 mg/kg/day, based on mortality.

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Inhalation short-term (1 to 30 days)	Inhalation (or oral) study NOAEL = 75 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential LOC for MOE = <100.	Developmental Toxicity (oral)—rat. Maternal LOAEL = 250 mg/kg/day, based on mortality.
Cancer (Oral, dermal, inhalation) routes	''Not likely to be carcinogenic to humans.''		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to clopyralid, EPA considered exposure under the petitioned-for tolerances as well as all existing clopyralid tolerances in 40 CFR 180.431. EPA assessed dietary exposures from clopyralid 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.

No such effects were identified in the toxicological studies for clopyralid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) which incorporates consumption data from the United States Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA) conducted from 2003 to 2008. As to residue levels in food, the chronic dietary exposure assessment was based on tolerance-level residues, and assumed that 100 percent (PCT) of all crops were treated.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that clopyralid does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for clopyralid. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for clopyralid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of clopyralid. 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 Water Calculator Version 1.52 (PWC) model, the estimated drinking water concentrations (EDWCs) of clopyralid for chronic exposures for non-cancer assessments are estimated to be 5.43 parts per billion (ppb) for surface water and 38.1 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration value of 38.1 ppb was used to assess the contribution from drinking water.

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

Clopyralid is currently registered for the following uses that could result in residential exposures: Weed control on lawns, turf and ornamentals in residential and public areas. EPA assessed residential exposure using the following assumptions: Residential handler exposures are not expected since the residential uses require that handlers wear specific clothing (*e.g.,* long-sleeved shirt and long pants; shoes plus socks) and/or personal protective equipment (*e.g.,* gloves). As a result, a residential handler assessment was not conducted. Short-term post-application exposure is anticipated for children from incidental oral contact with treated turf (hand-to-mouth, object-to-mouth and soil ingestion). Post-application dermal exposure is also anticipated from residential use of clopyralid. However, systemic toxicity via the dermal route of exposure is not expected for clopyralid. Therefore, dermal risks were not quantitatively assessed for residential exposure.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

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

EPA has not found clopyralid to share a common mechanism of toxicity with any other substances, and clopyralid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that clopyralid does not have 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.* There was no evidence of increased qualitative or quantitative sensitivity/susceptibility in the developing or young animal. In the rat developmental toxicity study, no developmental toxicity was observed at a maternally toxic dose. In the rat 2-generation reproductive toxicity study, decreased pup weight (post-natal day 28), and increased relative liver weights were observed at the parental LOAEL. Hydrocephalus and decreased mean fetal weight were observed in the rabbit developmental study, but at a dose that also caused significant maternal toxicity, including mortality; therefore, quantitative or qualitative developmental susceptibility was not observed for clopyralid.

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

i. The toxicity database for clopyralid is considered complete and no additional studies are required at this time.

ii. There are no clinical or micropathological indications of neurotoxicity in the available subchronic and chronic studies in multiple species. Hydrocephalus was observed in fetuses in the rabbit developmental study, but only at a high dose that resulted in significant maternal toxicity, including mortality. There is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that clopyralid results in increased susceptibility *in utero* in rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the dietary and residential exposure databases. EPA conducted the chronic dietary food exposure assessment based on 100 PCT, tolerance-level residues of clopyralid, and default processing factors, where applicable. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to clopyralid in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by clopyralid.

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.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, clopyralid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to clopyralid from food and water will utilize 26% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of clopyralid is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Several clopyralid products are currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to clopyralid.

Using the exposure assumptions described in this unit for short-term exposures and data results from a most recent previous EPA assessment of residential exposure, the Agency combined food, water, and short-term residential exposures result in aggregate MOEs of 1600 for children. Because EPA's level of concern (LOC) for clopyralid is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, clopyralid is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk aggregate risk is assessed based on intermediate- term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for clopyralid.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, clopyralid is not expected to pose a cancer risk to humans.

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 clopyralid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The Pesticide Analytical Manual Volume II (PAM II) lists a method utilizing gas chromatography with electron capture detection (GC/ECD) for determination of clopyralid residues in plant commodities (Method I or Method ACR 75.6).

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 not established MRLs for clopyralid residues on any commodities for which tolerances are established in this rule.

C. Response to Comments

One comment to the Notice of Filing was received from an anonymous commenter that stated, in part, that no clopyralid (pesticide) residue should be allowed on food crops.

EPA's Response: The Agency recognizes that some individuals believe that pesticides should not be allowed on agricultural crops. However, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This commenter's statements appear to be directed at the underlying statute and not EPA's implementation of it; the commenter has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-For Tolerances

EPA is establishing individual tolerances in kohlrabi and broccoli, chinese as they were part of subgroup 5A, but not included in expansion crop group 5–16 for which a tolerance is being established by this action.

EPA is not establishing the petitioned-for tolerance for Berry, low growing, except strawberry, subgroup 13–07H because it is not necessary. All commodities in subgroup 13–07H, plus strawberry, are included in subgroup 13–07G.

In accordance with its standard practice to provide greater precision about the levels of residues that are permitted by a tolerance, EPA is adding an additional significant figure to the petitioned-for tolerance values for the following commodities: Fruit, stone, group 12–12 from 0.5 to 0.50 ppm and radish, roots from 0.3 to 0.30. This is to avoid the situation where residues may be higher than the tolerance level, but as a result of rounding would be considered non-violative (for example, radish, roots proposed at 0.3 ppm was established at 0.30 ppm, to avoid an observed hypothetical tolerance at 0.34 ppm being rounded to 0.3 ppm).

V. Conclusion

Therefore, tolerances are established for residues of clopyralid, (3,6-dichloro-2-pyridinecarboxylic acid), in or on Berry, low growing, subgroup 13–07G at 4.0 ppm; *Brassica,* leafy greens, subgroup 4–16B at 5.0 ppm; broccoli, Chinese at 2.0 ppm; fruit, pome, group 11–10 at 0.05 ppm; fruit, stone, group 12–12 at 0.50 ppm; kohlrabi at 2.0 ppm; radish, roots at 0.30 ppm; stalk and stem vegetable subgroup 22A at 1.0 ppm; vegetable, *Brassica,* head and stem, group 5–16 at 2.0 ppm; and vegetable, leaves of root and tuber, group 2 at 5.0 ppm. In addition, established tolerances in or on ''apple''; ''asparagus''; ''beet, garden, tops''; ''beet, sugar, tops''; ''*Brassica,* head and stem, subgroup 5A''; ''*Brassica,* leafy greens, subgroup 5B''; ''canola, seed''; ''cranberry''; ''fruit, stone, group 12''; ''strawberry''; and ''turnip, greens'' are removed as they are superseded by this final tolerance rule.

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 Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Amend the table in § 180.431(a) as follows:

■ a. Add alphabetically the entries for ''Berry, low growing, subgroup 13–07G'';''*Brassica,* leafy greens, subgroup 4–16B''; ''Broccoli, Chinese''; ''Fruit, pome, group 11–10''; ''Fruit, stone, group 12–12''; ''Kohlrabi''; ''Radish, roots''; ''Stalk and stem vegetable subgroup 22A''; ''Vegetable, *Brassica,* head and stem, group 5–16''; and ''Vegetable, leaves of root and tuber, group 2''.

■ b. Remove the entries for ''Apple''; ''Asparagus''; ''Beet, garden, tops''; ''Beet, sugar, tops''; ''*Brassica,* head and stem, subgroup 5A''; ''*Brassica,* leafy greens, subgroup 5B''; ''Canola, seed''; ''Cranberry''; ''Fruit, stone, group 12''; ''Strawberry''; and ''Turnip, greens''.

The additions read as follows:

§ 180.431 Clopyralid; Tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Berry, low growing, subgroup 13–07G	4.0
Brassica, leafy greens, subgroup 4–16B	5.0
* * * * *	
Broccoli, Chinese	2.0
* * * * *	
Fruit, pome, group 11–10	0.05
Fruit, stone, group 12–12	0.50
* * * * *	
Kohlrabi	2.0
* * * * *	
Radish, roots	0.30
* * * * *	
Stalk and stem vegetable subgroup 22A	1.0
* * * * *	
Vegetable, *Brassica,* head and stem, group 5–16	2.0
Vegetable, leaves of root and tuber, group 2	5.0
* * * * *	

* * * * *

[FR Doc. 2018–10693 Filed 5–22–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120919470–3513–02]

RIN 0648–XG231

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Reopening of the Penaeid Shrimp Fishery Off Georgia

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

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the exclusive economic zone (EEZ) off Georgia in the South Atlantic to trawling for penaeid shrimp, *i.e.,* for brown, pink, and white shrimp. NMFS previously closed penaeid shrimp trawling in the EEZ off Georgia on January 24, 2018. The reopening is intended to maximize harvest benefits while protecting the penaeid shrimp resource.

DATES: The reopening is effective at 12:01 a.m., local time, May 18, 2018, until the effective date of a notification of a closure which will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Frank Helies, 727–824–5305; email: *Frank.Helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: Penaeid shrimp in the South Atlantic are managed under the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.206(a), NMFS may close the EEZ adjacent to South Atlantic states that have closed their waters to the harvest of brown, pink, and white shrimp to protect the white shrimp spawning stock that has been severely depleted by cold weather or when applicable state water temperatures are 9 °C (48 °F), or less, for at least 7 consecutive days. Consistent with those procedures and criteria, after determining that unusually cold temperatures resulted in water temperatures of 9 °C (48 °F), or less, for at least 7 consecutive days in its state waters, the state of Georgia closed its waters on January 15, 2018, to the harvest of brown, pink, and white shrimp. Georgia subsequently requested that NMFS implement a concurrent closure of the EEZ off Georgia.

NMFS determined that Georgia's request for an EEZ closure conformed with the procedures and criteria specified in the FMP and the Magnuson-Stevens Act, and, therefore, implemented the concurrent EEZ closure effective as of January 24, 2018 (83 FR 3404, January 25, 2018).

During the closure, as specified in 50 CFR 622.206(a)(2), no person could: (1) Trawl for brown, pink, or white shrimp in the EEZ off Georgia; (2) possess on board a fishing vessel brown, pink, or white shrimp in or from the EEZ off Georgia unless the vessel is in transit through the area and all nets with a mesh size of less than 4 inches (10.2 cm) are stowed below deck; or (3) for a vessel trawling within 25 nautical miles of the baseline from which the territorial sea is measured, use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

The FMP and implementing regulations at 50 CFR 622.206(a) state that: (1) The closure will be effective until the ending date of the closure in the state waters, but may be ended earlier based on the state's request; and (2) if the closure is ended through a state's request, NMFS will terminate the closure of the EEZ by filing a notification to that effect with the Office of the Federal Register. On May 16, 2018, the state of Georgia requested the EEZ be reopened as soon as possible, based on their biological sampling. The state of Georgia is continuing its monitoring of both water conditions and the penaeid shrimp population in state waters but has not yet determined when the state waters reopening will occur. Therefore, NMFS publishes this notification to reopen the EEZ off Georgia to the harvest of brown, pink,

and white shrimp effective 12:01 a.m., local time, May 18, 2018.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B). Allowing prior notice and opportunity for public comment on the reopening is unnecessary because the rule establishing the reopening procedures has already been subject to notice and comment, and all that remains is to notify the public of the reopening date. Additionally, allowing for prior notice and opportunity for public comment for this reopening is contrary to the public interest because it requires time, thus delaying the removal of a restriction and thereby reducing socio-economic benefits to the shrimp fishery. Also, the FMP procedures and implementing regulations require the penaeid shrimp trawling component based on the state's request, which Georgia requested to be as soon as possible.

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

This action is authorized by 50 CFR 622.206(a) and is exempt from review under Executive Order 12866.

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

Dated: May 18, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018–11009 Filed 5–18–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 100
Wednesday, May 23, 2018

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 66

[Doc. No. AMS–TM–17–0050]

National Bioengineered Food Disclosure Standard

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; notice of availability of informational webinar.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the availability of an informational webinar regarding the proposed National Bioengineered Food Disclosure Standard (NBFDS or standard). The proposed standard would require food manufacturers and other entities that label foods for retail sale to disclose information about bioengineered food and bioengineered food ingredients. The pre-recorded webinar will provide an overview of the background, provisions, and potential impacts of the proposed standard. Establishment and implementation of the new standard is required by recent amendment to the Agricultural Marketing Act of 1946.

DATES: The webinar will be made available on the AMS website at *https://www.ams.usda.gov/rules-regulations* beginning June 1, 2018.

FOR FURTHER INFORMATION CONTACT: Email: *befooddisclosure@ams.usda.gov;* telephone: (202) 690–1300; or Fax: (202) 690–0338. Comments on the proposed rule sent to this email address will not be considered. Comments must be submitted through *regulations.gov;* by mail to the Docket Clerk, 1400 Independence Ave., AS, Room 4543–S, Washington, DC 20250; or by Fax to (202) 690–0338.

SUPPLEMENTARY INFORMATION: On July 29, 2016, Public Law 114–216 amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), as amended, and directed the Secretary of Agriculture to establish the NBFDS for disclosing any food that is or may be bioengineered. AMS published a proposed rule regarding the new standard in the **Federal Register** on May 4, 2018 (83 FR 19860). The proposed rule announced that AMS would be providing a webinar regarding the proposed NBFDS. The webinar, which is pre-recorded, will be made available to interested persons on the AMS website at *https://www.ams.usda.gov/rules-regulations* beginning June 1, 2018. The webinar is intended to supply basic information about the proposed rule and several regulatory alternatives on which AMS is seeking public comment.

The rule seeks comments on the proposed scope of the standard, including what foods should bear disclosures and what entities would be responsible for making disclosures. The rule proposes several alternatives for consideration, including methods of disclosure, and outlines procedures for recordkeeping and compliance. The proposed rule also seeks comments on the recordkeeping and information collection burden associated with the new standard. Comments on the proposed rule and on the information collection are being accepted through July 3, 2018, and should be submitted as directed in the May 4, 2018, **Federal Register** document.

In conjunction with the proposed rule, AMS published a Regulatory Impact Analysis, which describes potential impacts of the rule under alternative scenarios. Comments on the regulatory impacts of the proposed NBFDS are also invited. The full text of the proposed rule, as well as the Regulatory Impact Analysis, may be viewed at *www.regulations.gov.*

Authority: 7 U.S.C. 1621 *et seq.*

Dated: May 18, 2018.

Bruce Summers,

Administrator.

[FR Doc. 2018–11025 Filed 5–22–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1081; Product Identifier 2017–SW–090–AD]

RIN 2120–AA64

Airworthiness Directives; AgustaWestland S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for AgustaWestland S.p.A. (AgustaWestland) Model AW189 helicopters. This proposed AD would require replacing the tail plane lower fitting with an improved tail plane lower fitting. This proposed AD is prompted by reports of cracks on the tail plane fittings of Model AW189 helicopters. The actions of this proposed AD are intended to correct an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 23, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1081; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and

other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Martin R. Crane, Aviation Safety Engineer, Regulations & Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *martin.r.crane@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2016–0161, dated August 8, 2016, to correct an unsafe condition for Leonardo Helicopters (previously Finmeccanica S.p.A, AgustaWestand) Model AW189 helicopters. EASA advises that some cracks have been reported in-service on the tail plane fitting of AW189 helicopters following an onset of abnormal play. According to EASA, this condition, if not detected and corrected, could jeopardize structural integrity of the helicopter. EASA further advises that Leonardo Helicopters developed a tail plane lower fitting with an improved design (part number 8G0000P00511). Accordingly, EASA AD No. 2016–0161 requires repetitive inspections of the tail plane lower fitting assembly until the improved tail plane lower fitting is installed.

Because the FAA is in the process of updating AgustaWestland's name changes to Finmeccanica S.p.A. and then to Leonardo Helicopters on its FAA type certificate, this proposed AD specifies AgustaWestland as the type certificate holder.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

We reviewed Leonardo Helicopters Bollettino Tecnico (BT) No. 189–038, Revision B, dated October 13, 2016, which specifies repetitively inspecting the tail plane assembly for a crack.

We also reviewed BT No. 189–070, Revision A, dated October 13, 2016, which provides instructions for replacing the tail plane lower fitting with the improved tail plane lower fitting, retromodification part number (P/N) 8G0000P00511.

Proposed AD Requirements

This proposed AD would require, within 50 hours time-in-service (TIS), replacing the tail plane fitting with tail plane retromodification kit P/N 8G0000P00511.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires inspecting the tail plane lower fitting for play within 50 flight hours and thereafter at intervals not to exceed 25 flight hours. If a crack or other damage exists, the EASA AD requires the improved tail plane lower fitting be installed within 10 flight hours. If no crack exists, the EASA AD requires that the improved tail plane lower fitting be installed within 200 flight hours or 2 months, whichever occurs first. This proposed AD would not require inspections and would require installing the improved tail plane lower fitting within 50 hours TIS.

Costs of Compliance

We estimate that this proposed AD would affect 2 helicopters of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect that replacing the tail plane lower fitting with an improved tail plane lower fitting would require 64 work-hours and parts would cost $15,424 for a total cost of $20,864 per helicopter and $41,728 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AgustaWestland S.p.A.: Docket No. FAA–2017–1081; Product Identifier 2017–SW–090–AD.

(a) Applicability

This AD applies to AgustaWestland S.p.A. Model AW189 helicopters, certificated in any category, with a tail plane lower fitting P/N 8G5350A07051 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack on a tail plane fitting, which could result in failure of the tail plane fitting and loss of helicopter control.

(c) Comments Due Date

We must receive comments by July 23, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 50 hours time-in-service, install tail plane retromodification kit part number 8G0000P00511.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Martin R. Crane, Aviation Safety Engineer, Regulations & Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Leonardo Helicopters Bollettino Tecnico (BT) No. 189–038, Revision B, and BT No. 189–070, Revision A, both dated October 13, 2016, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016–0161, dated August 8, 2016. You may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 5510, Horizontal Stabilizer Structure.

Issued in Fort Worth, Texas, on May 15, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–10918 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0947; Product Identifier 2017–SW–059–AD]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Robinson Helicopter Company (Robinson) Model R44 and R44 II helicopters. This proposed AD would require visually checking each tail rotor blade for a crack. This proposed AD is prompted by a report of cracking in certain tail rotor blades. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 23, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0947; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Robinson Helicopter Company, 2901 Airport Drive, Torrance, CA 90505; telephone (310) 539–0508; fax (310) 539–5198; or at *http://www.robinsonheli.com/servelib.htm.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: James Guo, Aerospace Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5357; email *james.guo@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result

from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

We propose to adopt a new AD for Robinson R44 and R44 II helicopters with a tail rotor blade part number (P/N) C029–1 or P/N C029–2 installed. This proposed AD would require checking the tail rotor blades for cracks within 50 hours time-in-service (TIS) and thereafter before each flight.

This proposed AD is prompted by reports of P/N C029–1 and P/N C029–2 tail rotor blades with fatigue cracks at the leading edge. The cracks were caused by high fatigue stresses due to resonance when the blades were at high pitch angles from large left pedal inputs. Robinson consequently issued R44 Service Bulletin SB–83, dated May 30, 2012 (SB–83). At the time SB–83 was issued, the reports of cracking on the tail rotor blade were isolated and infrequent. Since 2015, five events have been reported of helicopters with cracking on tail rotor blades. Therefore, we are proposing actions that are intended to detect a cracked tail rotor blade and prevent loss of the blade and subsequent loss of directional control.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

We have reviewed Robinson SB–83 which specifies, within 10 flight hours or by June 30, 2012, whichever occurs first, inserting a caution page into the Pilot's Operating Handbook. The caution page specifies inspecting the leading edges of each tail rotor blade for a crack before each flight. The caution page also advises that to reduce fatigue stress damage to the tail rotor blades, pilots should avoid maneuvers that require large left pedal inputs. SB–83 specifies that the caution page may be removed when the tail rotor blades are replaced with tail rotor blade P/N C029–3.

Proposed AD Requirements

This proposed AD would require within 50 hours TIS and thereafter before each flight, visually checking each tail rotor blade for a crack in the tail leading edge, paying particular attention to the most inboard white paint stripe. An owner/operator (pilot) may perform the required visual check and must enter compliance with the applicable paragraph of the AD into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1) through (4) and 91.417(a)(2)(v). A pilot may perform this check because it involves only a visual check and can be performed equally well by a pilot or a mechanic. This check is an exception to our standard maintenance regulations.

This proposed AD also would require before further flight, replacing any cracked tail rotor blade.

Differences Between This Proposed AD and the Service Information

Robinson SB SB–83 requires compliance within 10 flight hours or by June 30, 2012, whichever occurs first. This proposed AD would require compliance within 50 hours TIS. Given the helicopter's history and the type of operations conducted by the current fleet, we determined that this compliance time is adequate to reduce the risk of a crack on the tail rotor blade to an acceptable level.

Costs of Compliance

We estimate that this proposed AD would affect 1,631 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Visually checking the tail rotor blades for a crack would require 0.2 hour for a cost of $17 per helicopter and $27,727 for the U.S. fleet per check cycle. Replacing a tail rotor blade, if required, would require 2 work-hours and parts would cost $3,080 for a cost of $3,250 per blade.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Robinson Helicopter Company: Product No. FAA–2017–0947; Product Identifier 2017–SW–059–AD.

(a) Applicability

This AD applies to Robinson Helicopter Company (Robinson) Model R44 and R44 II helicopters, certificated in any category, with a tail rotor blade part number (P/N) C029–1 or P/N C029–2 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a tail rotor blade. This condition could result in the loss of the tail rotor and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by July 23, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 50 hours TIS after the effective date of this AD and thereafter before each flight:

(1) Visually check each tail rotor blade for a crack in the tail leading edge, paying particular attention to the area in the most inboard white paint stripe. Wipe the blades clean, if necessary, to ensure any potential crack is visible. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(2) If there is a crack, before further flight, replace the tail rotor blade.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Los Angeles ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: James Guo, Aerospace Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5357; email *james.guo@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

Robinson Helicopter Company R44 Service Bulletin SB–83, dated May 30, 2012, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Robinson Helicopter Company, 2901 Airport Drive, Torrance, CA 90505; telephone (310) 539–0508; fax (310) 539–5198; or at *http://www.robinsonheli.com/servelib.htm.* You may review a copy of information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6410, Tail Rotor Blades.

Issued in Fort Worth, Texas, on May 14, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–10919 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0255; Airspace Docket No. 18–ASO–6]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; St Marys, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace extending upward from 700 feet above the surface at St Marys, GA, because St Marys Airport has closed, and controlled airspace is no longer required at this location.

DATES: Comments must be received on or before July 9, 2018.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg Ground Floor, Rm W12–140, Washington, DC 20590; Telephone: 800–647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2018–0255; Airspace Docket No. 18–ASO–6, at the beginning of your comments. You may also submit and review received comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class E airspace extending upward from 700 feet above the surface at St Marys Airport, St Marys, GA, due to the closing of this airport.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2018–0255; Airspace Docket No. 18–

ASO–6) and be submitted in triplicate to the Docket Management System (see ''**ADDRESSES**'' section for address and phone number). You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0255; Airspace Docket No. 18–ASO–6.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is considering an amendment to title 14, Code of Federal Regulations (14 CFR) part 71 to remove Class E airspace extending upward from 700 feet above the surface at St Marys Airport, St Marys, GA. This airport has closed. Therefore, the airspace is no longer necessary at this site.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO GA E5 St Marys, GA [Removed]

Issued in College Park, Georgia, on May 16, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–10946 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2018–0068]

RIN 2105–AE63

Traveling by Air With Service Animals

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Department of Transportation (DOT or Department) is seeking comment on amending its Air Carrier Access Act (ACAA) regulation on transportation of service animals. The Department has heard from the transportation industry, as well as individuals with disabilities, that the current ACAA regulation could be improved to ensure nondiscriminatory access for individuals with disabilities, while simultaneously preventing instances of fraud and ensuring consistency with other Federal regulations. The Department recognizes the integral role that service animals play in the lives of many individuals with disabilities and wants to ensure that individuals with disabilities can continue using their service animals while also helping to ensure that the fraudulent use of other animals not qualified as service animals is deterred and animals that are not trained to behave properly in the public are not accepted for transport as service animals.

DATES: Comments should be filed by July 9, 2018. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2018–0068 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. 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 Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2018–0068 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone can search the electronic form of all comments received in 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), or you may visit *http://DocketsInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Maegan Johnson, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *maegan.johnson@dot.gov* (email). You may also contact Blane Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *blane.workie@dot.gov*.

SUPPLEMENTARY INFORMATION:

Current Service Animal Requirements

DOT considers a service animal to be any animal that is individually trained to assist to a qualified person with a disability or any animal necessary for the emotional well-being of a passenger.[1] U.S. airlines must transport all service animals regardless of species with a few narrow exceptions.[2] U.S. airlines are not required to accommodate certain unusual service animals, such as snakes, reptiles, ferrets, rodents, and spiders.[3] Under DOT's current rule, airlines may also refuse to carry other animals if the airline determines: (1) There are factors precluding the animal from traveling in the cabin of the aircraft, such as the size or weight of the animal; (2) the animal would pose a direct threat to the health or safety of others; (3) it would cause a significant disruption of cabin service; or (4) the law of a foreign country that is the destination of the flight would prohibit entry of the animal.[4] DOT requires foreign air carriers to transport only service dogs.[5] However, under DOT rules, a U.S. carrier is held responsible if a passenger traveling under the U.S. carrier's code is not allowed to travel with another type of service animal (*e.g.,* cat) on a flight operated by its foreign code share partner.[6]

Regarding emotional support animals (ESA) and psychiatric service animals (PSA), DOT requires airlines to recognize these animals as service animals, but allows airlines to require that ESA and PSA users provide a letter from a licensed mental health professional of the passenger's need for the animal.[7] To enable airlines sufficient time to assess the passenger's documentation, DOT permits airlines to require 48 hours' advance notice of a passenger's wish to travel with an ESA or PSA.[8] ESAs and PSAs differ from one another in that PSAs, like other traditional service animals, are trained to perform a specific task for a passenger with a disability. In contrast, ESAs provide emotional support for a passenger with a mental/emotional disability but are not trained to perform specific tasks. However, DOT expects that all service animals are trained to behave properly in a public setting.

Under the existing service animal regulations, it is generally not permissible to insist on written credentials or documentation for an animal as a condition for treating it as a service animal, except for an ESA or PSA. DOT requires airlines to accept animals as service animals based on the ''credible verbal assurances'' of the passengers.[9] Airlines may also not charge for the transport of service animals.[10]

The Department's disability rule permits airlines not to transport service animals that pose a direct threat to the health or safety of others or would cause a significant disruption of cabin service. In guidance referenced in the Department's service animal rule, DOT has advised airlines to observe the behavior of the service animal to determine if it is a properly trained animal as such an animal will calmly remain by its owner.[11] The animal should not run freely, bark or growl at other persons, urinate or defecate in the gate area, or bite.[12] Observing the behavior of the animal assists airline personnel in making a case-by-case determination as to whether the animal may pose a direct threat to the health or safety of others or may create a significant disruption in cabin service. Airlines are not required to accept for transport animals that do not behave properly in public, even if the animal performs an assistive function for a passenger with a disability or is necessary for the passenger's emotional well-being, as the animal could pose a direct threat to the health or safety of others and/or cause a significant disruption of cabin service.[13]

The Department's current service animal regulation does not contain a limitation on the number of service animals that may accompany an individual with a disability. The regulation references guidance that states that a single passenger legitimately may have two or more service animals.[14] As a matter of enforcement discretion, the Department's Office of Aviation Enforcement and Proceedings has not taken action against airlines when airlines declined requests to transport more than three service animals for a

[1] See 14 CFR 382.117(i) and Guidance Concerning Service Animals, 73 FR 27614, 27659 (May 13, 2008).

[2] 14 CFR 382.117(a).

[3] 14 CFR 382.117(f).

[4] *Id.*

[5] *Id.*

[6] See 14 CFR 382.7(c). As a matter of prosecutorial discretion, the Department's Office of Aviation Enforcement and Proceedings has chosen not pursue actions against U.S. airlines when it has found these types of violations.

[7] 14 CFR 382.117(e).

[8] 14 CFR 382.27(c)(8).

[9] 14 CFR 382.117(d).

[10] 14 CFR 382.31(a).

[11]

[12] See Guidance Concerning Service Animals, 73 FR 27614, 27659 (May 13, 2008).

[13] *Id.* at 27658.

[14] *Id.* at 27661.

single passenger.[15] DOT's service animal rule also does not contain any leash, tether, muzzle, or containment requirements. Prior DOT guidance explained that a requirement for a service animal to be muzzled or harnessed would be appropriate only as a means of mitigating a direct threat to the health or safety of others, such as muzzling a dog that barks frequently.[16] As for transporting a service animal in a carrier, an order from the Federal Aviation Administration explained that a service animal may safely sit in the lap of its owner for all phases of flight, including ground movement, take-off, and landing if the service animal is no larger than a lap-held child (a child who has not reached his or her second birthday).[17]

Need for a Rulemaking

Consumer Complaints

The Department continues to receive complaints from individuals with service animals. DOT received 110 service animal complaints in 2016 and 70 service animal complaints in 2017 against airlines. In 2016, the third highest disability complaint area concerned service animals, and in 2017, it was the fifth highest.[18] U.S. and foreign airlines reported receiving 2,443 service animal complaints in 2016 and 2,499 service animal complaints in 2017. This was the fourth largest disability complaint area for airlines during both years. Over 60 percent of the service animal complaints received by the Department concern ESAs and PSAs. Most of the service animal complaints involving ESAs or PSAs are from passengers with disabilities who are upset that the airline is not accepting their animals for transport.

Unusual Species

The use of unusual species as service animals has also added confusion. Passengers have attempted to fly with peacocks, ducks, turkeys, pigs, iguanas, and various other types of animals as emotional support or service animals. Airlines have expressed concerns about the amount of attention and resources that are expended when having to accommodate unusual service animals. Disability rights advocates have voiced alarm that these animals may erode the public's trust, which could result in reduced access for many individuals with disabilities who use traditional service animals. Advocates have also expressed concern that these animals lack the ability to be trained to behave properly in a public setting.

Pets

Many airlines also indicated that they believe passengers wishing to travel with their pets may be falsely claiming that their pets are service animals so they can take their pet in the aircraft cabin or to avoid paying a fee for their pets. The increase in the number of service animals in aircraft cabins has led some to believe that many of these animals are really pets but are being passed off as service animals. There is also concern that vests, harnesses, and other items, which traditionally have been considered to be physical indicators of a service animal's status, are easily purchased online by fliers trying to misrepresent their pets as service animals. Airlines have also reported to the Department that certain entities may, for a fee, be providing individuals with pets a letter stating that the individual is a person with a mental or emotional disability and that their animal is an ESA or PSA, when in fact they are not.

Misbehavior by Service Animals

Airlines and airline associations have contacted the Department to express concerns that passengers are increasingly bringing untrained service animals onboard aircraft and putting the safety of crewmembers and other passengers at risk. According to one airline, there has been an 84 percent spike since 2016 in the number of behavior-related service animal problems, including urinating, defecating, or biting. Another airline reports that there has been a 75 percent increase in the number of emotional support animals that it transports when comparing calendar year 2016 to calendar year 2017. This airline appears to believe that this has resulted in a significant increase in onboard incidents. In addition, there have been a few highly-publicized reports of service animals biting passengers. While the current rule anticipates that airline personnel will assess service-animal behavior in the gate area and weed out misbehaving service animals prior to boarding the aircraft, airlines have indicated gate staff are oftentimes too busy to observe the behavior of service animals. Airlines also note that even if they were to observe an animal prior to entering the aircraft, the animal may act differently once exposed to the confinement in the cabin or once the aircraft departs.

Airport

Another concern is the differences, in the airport terminal context, between DOT's ACAA regulations that apply to airlines, and their facilities and services, contrasted with the Department of Justice's (DOJ) Americans with Disabilities Act (ADA) regulations that apply to airports, and their facilities and services. DOJ's Title II rules for State and local governments govern airports owned by a public entity; DOJ's Title III rules for public accommodations and commercial facilities govern privately owned airports and airport facilities operated by businesses like restaurants and stores. DOJ defines ''service animal'' as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.[19] Emotional support animals are not recognized as service animals under Title II and Title III of the ADA.[20]

[15] DOT, *Revised Service Animal Matrix*, at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0150* (July 6, 2016).

[16] See Guidance Concerning Service Animals in Air Transportation, 68 FR 24874, 24875 (May 9, 2003).

[17] Flight Standards Information Bulletin for Air Transportation (FSAT 04–01A), Order 8400.10 (July 23, 2004).

[18] The four categories of disability service that typically receive the highest number of DOT-reported complaints are wheelchair assistance/transportation within the airport, delay/damage to assistive devices, seating accommodations, and service animals. See, *e.g., https://www.transportation.gov/sites/dot.gov/files/docs/resources/individuals/aviation-consumer-protection/286306/2016-summary-totals-us-air-carriers_0.pdf* In conjunction with stakeholders, the DOT has recently developed training material on all four of these topics for the benefit of both passengers and carrier personnel. See *https://www.transportation.gov/individuals/aviation-consumer-protection/traveling-disability.*

[19] See 28 CFR 36.104. Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

[20] *See* Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 75 FR 56236, 56269

However, under the ACAA, a service animal is any animal that is individually trained to provide assistance to a qualified person with a disability or any animal that assist persons with disabilities by providing emotional support.[21] Consequently, a restaurant or store in an airport could, without violating DOJ rules, deny entry to a properly documented emotional support animal or service cat that an airline, under the ACAA, would have to accept. Further, some airports are exercising their authority under the ADA to require that emotional support animals be contained in a pet carrier when traversing through areas of the airport not owned, leased, or controlled by airlines.

Request for Rulemaking

The Psychiatric Service Dog Society (PSDS), an advocacy group representing users of psychiatric service dogs, petitioned the Department in 2009 to eliminate a provision in the Department's Air Carrier Access Act regulation that permitted airlines to require documentation and 48 hours' advance notice for users of psychiatric service animals.[22] PSDS emphasized that the Department should not equate psychiatric service animals to emotional support animals. It noted that PSAs differ significantly from ESAs in that PSAs are trained to behave properly in public settings and trained to mitigate the effects of a mental health-related disability. PSDS also asserted that the Department is discriminating against and stigmatizing individuals with mental health-related disabilities who use PSAs by imposing additional procedural requirements on users of PSAs that are not imposed on service animals used by individuals with physical disabilities. PSDS further raised practical concerns with the current documentation requirement (*e.g.,* financial hardship on PSA users without health insurance) and advance notice requirement (*e.g.,* difficulty PSA users experience when they need to fly on short notice because of a family emergency). The Department subsequently issued a notice in the **Federal Register** seeking comment on the group's petition and related questions to assist the Department in determining whether to grant the petition by initiating a rulemaking or to deny the petition and retain the provision without change.[23] Interested parties can read the entire petition and comments received at DOT–OST–2009–0093. The Department is granting the petition by issuing this advance notice of proposed rulemaking.

A few months ago, the Department also received a request to initiate a rulemaking to amend its service animal regulation from Airlines for America (A4A). A4A asks that DOT harmonize its service animal definition under its Air Carrier Access Act regulation with the DOJ's Americans with Disabilities Act regulation. A4A would also like the Department to allow airlines to require all service animal users to provide a letter from a licensed physician or mental health professional stating that the passenger is under his or her care for the condition requiring the service animal and specifying that the passenger needs the animal for an accommodation in air travel or at the passenger's destination. It asks that DOT delete all mentions in DOT's ACAA regulations or guidance suggesting that items such as vests, harnesses, ID cards, or other potential indicators other than a letter described above should be accepted as proof that the animal is qualified to be carried. A4A further asks that if DOT allows ESAs and PSAs, it limit the types of ESAs and PSAs that airlines are required to accommodate.[24] In a subsequent letter to the Department, A4A stressed the need to amend the Department's service animal regulation to protect the health and safety of passengers and crew because of an increase in passengers bringing animals onboard that have not been properly trained as service animals. In that letter, A4A noted that it expects airlines will be taking the appropriate steps to ensure the safety and health of passengers and crew.[25] In February 2018, ten disability advocacy organizations expressed concern to the Department with the revised service animal policies announced by two airlines and urged the Department to take action to stop the proliferation of patch work service animal access requirements.[26]

In response to the President's direction in Executive Orders (E.O.) 13771, E.O. 13777, and E.O. 13783, as well as other legal authorities, the Department published a Notice of Regulatory Review in the **Federal Register** on October 2, 2017, inviting public comment on existing rules and other agency actions that are good candidates for repeal, replacement, suspension, or modification. [27] The Department received comments from airlines and airline associations regarding the need to revise the Department's ACAA service animal regulations, raising a number of issues that will be explored in this rulemaking.[28]

FAA Extension, Safety and Security Act of 2016

The FAA Extension, Safety, and Security Act of 2016 requires that the Department issue a supplemental notice of proposed rulemaking on five issues—(1) supplemental medical oxygen; (2) service animals; (3) accessible lavatories on single-aisle aircraft; (4) carrier reporting of disability service requests; and (5) seating accommodations. With respect to service animals, the rulemaking needs to address, at a minimum, species limitations and the documentation requirement for users of emotional support and psychiatric service animals.[29]

ACCESS Advisory Committee

In April 2016, DOT established an Advisory Committee on Accessible Air Transportation (ACCESS Advisory

(September 15, 2010). ''In the final rule, the Department [of Justice] has retained its position on the exclusion of emotional support animals from the definition of ''service animal.''

[21] See Guidance Concerning Service Animals, 73 FR 27614, 27658 (May 13, 2008).

[22] See *Psychiatric Service Dog Society,* DOT–OST–2009–0093–0001 at *https://www.regulations.gov/document?D=DOT-OST-2009-0093-000* (April 21, 2009).

[23] See 74 FR 47902, 47905 (September 18, 2009).

[24] Comments of Airlines for America Part II—Proposals for Repeal or Amendment of Specific DOT Economic Regulations, DOT, DOT–OST–2017–0069–2751, 26–32 at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2751* (December 1, 2017).

[25] Letter from Sharon L. Pinkerton, Airlines for America, to James Owens, Deputy General Counsel, Department of Transportation (January 31, 2018) at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0314.*

[26] Letter to Secretary Chao from American Association of People with Disabilities, Bazelon Center for Mental Health Law, Christopher and Dana Reeve Foundation, Disability Rights Education and Defense Fund, National Association of the Deaf, National Disability Rights Network, Paralyzed Veterans of America, The Arc of the United States, The National Council on Independent Living, and United Spinal Association (February 6, 2018) at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0315.*

[27] 82 FR 45750 (Oct. 2, 2017).

[28] *See, e.g.,* Comment from Airlines for America at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2751* (December 4, 2017); Comment from International Air Transport Association at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2697* (December 1, 2017); Comment from Kuwait Airways at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2679* (December 1, 2017); and Comment from National Air Carrier Association at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2771* (December 4, 2017).

[29] FAA Extension Safety and Security Act of 2016, 114 Public Law 190, Section 2108 (July 15, 2016); In-Flight Medical Oxygen and other ACAA issues, RIN 2015–AE12, *https://cms.dot.gov/regulations/significant-rulemaking-report-archive* (June 2016).

Committee) to negotiate and develop a proposed rule concerning accommodations for air travelers with disabilities addressing in-flight entertainment/communications, accessible lavatory on new single-aisle aircraft, and service animals.[30] The ACCESS Advisory Committee, comprised of 27 members, was tasked with submitting three recommendations to the Department—one on each of the three separate issues. Because the negotiations address three disparate issues and some Committee members did not have a stakeholder and/or expert interest with respect to certain issues, each Committee member determined for himself or herself whether they would work on one or more of the issues. Of the 27 Committee members, 19 had stakeholder and/or expert interest with respect to service animals and actively worked on service animal issues. These members represented a balanced cross-section of significantly affected stakeholder interests.[31]

Despite good faith efforts, the ACCESS Advisory Committee was not able to reach consensus on how the service animals regulations should be revised. Nevertheless, the Department was able to gather useful information during this process from disability rights advocates, the airline industry, an association representing flight attendants, and other interested parties. The Committee members and other interested parties spent considerable time discussing the following issues: (1) Distinguishing between emotional support animals and other service animals; (2) limiting the species of service animals that airlines are required to transport; (3) limiting the number of service animals that a single individual should be permitted to transport; and (4) requiring attestation from all service animal users that their animal has been trained to behave in a public setting. Each of these issues are discussed in turn.

Emotional Support Animals—Species Limitation and Containment

Airlines uniformly opposed the continued recognition of ESAs in the ACAA context, as they are not recognized under the ADA.[32] Carriers urged DOT to harmonize its definition of service animal under the ACAA with the DOJ definition of service animal under the ADA by eliminating ESAs and limiting service animals to dogs and where reasonable miniature horses.[33] Carriers also proposed eliminating access for emotional support animals as they consider these animals to cause most in-flight disruptions.

Advocates were united in supporting access for emotional support animals under the ACAA and wanted a legal classification for ESAs separate from service animals in recognition of the fact that emotional support animals are not trained to perform work or tasks to mitigate disability.[34] However, they disagreed about which species should be allowed access as emotional support animals and what type of access they should have.

Two disability organizations—International Association of Canine Professionals and Assistance Dogs International—proposed limiting ESAs to cats and dogs and requiring that they be in approved pet carriers for the duration of a passenger's flight unless needed for disability mitigation. These two organizations stated that they do not support including rabbits as ESAs because rabbits may excrete out of the carrier.[35] Five disability organizations—Psychiatric Service Dog Partners, Guide Dog Foundation for the Blind, Open Doors Organization, National Multiple Sclerosis Society, Guide Dog Users, Inc.—proposed limiting ESAs to dogs, cats, and rabbits and requiring that they be contained in approved pet carriers, except when needed for disability mitigation. They stated that cats and dogs are common emotional support animals, and rabbits should also be included as they can have soothing tendencies beyond those of cats and dogs. They were opposed to extending ESA status to other animals as they believe employee training and expertise on service animals have limits and are concerned that the proliferation of nontraditional species as service animals would erode public trust toward service animal users generally.[36]

Six other disability organizations—Paralyzed Veterans of America, National Alliance on Mental Illness, National Federation of the Blind, Autistic Self Advocacy Network, Bazelon Center for Mental Health Law, Easterseals—wanted household birds to also be recognized as ESAs and were in favor of containment for cats, rabbits, and birds, except when needed for disability mitigation.[37] They asserted that emotional support dogs that are trained to behave in public, but not trained to provide disability mitigation,[38] do not require a pet carrier. The advocates all stated that when the emotional support animal is providing disability mitigation, the animal should be tethered to the handler and under control of the handler.[39]

Airlines and the flight attendant association urged the Department to allow airlines to require that ESAs that fit in pet carriers be kept there for the duration of the flight, if airlines are required to continue carrying ESAs. The airlines and flight attendant association stated that it would be difficult to enforce a rule that allowed ESAs to be out of the carrier when providing disability mitigation as it would necessitate a subjective assessment by flight attendants as to the reason the ESA is not in the carrier. They also expressed concern about the ability of airline personnel to distinguish between ESAs and PSAs as airline personnel have not been trained to recognize the difference between these animals.

Service Animals—Species Limitation

There was a consensus among ACCESS Committee members that the

[30] 81 FR 20265 (Apr. 7, 2016).

[31] The 19 ACCESS Advisory Committee members on the service animal subcommittee were from the following organizations: United Airlines; National Council on Independent Living (NCIL); National Disability Rights Network; National Federation of the Blind (NFB); National Air Carrier Association; Jet Blue Airlines; Association of Flight Attendants-CWA; International Air Transport Association; West Jet Airlines; Delta Air Lines; Psychiatric Service Dog Partners (PSDP); Lufthansa Airlines; Paralyzed Veterans of America (PVA); Frontier Airlines; National Alliance on Mental Illness (NAMI); Guide Dog Foundation for the Blind (GDFB); American Council of the Blind (ACB); Regional Airline Association; and U.S. Department of Transportation. These organizations were selected to represent not only the interest of that individual's own organization but rather the collective stakeholder interests of organizations in the same stakeholder category.

[32] *Carrier Response to Revised Service Animal Proposal, August 31,2016 (Revised September 8, 2016),* at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209.* (September 8, 2016).

[33] DOJ, while not recognizing miniature horses as service animals, requires that entities covered by the ADA permit individuals with disabilities to use miniature horses where reasonable if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. See 28 CFR 36.302.

[34] *Service Animal Advocates Position and Reasoning* at *https://www.regulations.gov/document?D=DOT–OST-2015-0246-0208* (September 15, 2016).

[35] *Id.* at 15.

[36] *Id.* at 7.

[37] *Id.* at 12.

[38] The ACCESS Committee discussions brought to light the distinction between disability mitigation training, which is training designed to teach service animals how to assist an individual with his or her disability, and public access training, which is training designed to teach a service animal how to behave properly in a public setting. For instance, an animal that has received disability mitigation training knows how to guide a passenger with a vision impairment, retrieve an item for a passenger with a mobility impairment, or perform a task or function to assist an individual with a disability with his or her needs. Service animals that have received proper public access training would not attack or bite people or animals, urinate or defecate in the gate area or on the aircraft, growl or lunge at people or other animals, or exhibit other signs of misbehavior.

[39] *Id.* at 4 and 12.

Department should limit the types of species recognized as service animals (including PSAs) and that this limit would provide greater predictability and added assurance of access for individuals with disabilities with legitimate service animals. The discussion about the type of animal that should be recognized as a service animal focused on dogs, miniature horses, capuchin monkeys, and cats. While there was no agreement on whether all the animals should be recognized as service animals, there was agreement that other animals should not be allowed as service animals.

1. Dogs

Representatives of airlines and certain disability organizations (Psychiatric Service Dog Partners, Guide Dog Foundation for the Blind & America's VetDogs, International Association of Canine Professionals (IACP), Open Doors Organization, National Federation of the Blind, Assistance Dogs International, and Guide Dog Users, Inc.) supported limiting coverage of service animals to dogs.[40]

2. Capuchin Monkeys

Disability groups supported recognizing capuchin monkeys as service animals,[41] with a requirement that they must be kept in a pet carrier due to their unpredictable aggressive behavior. Capuchin monkeys provide in-home services to individuals with paraplegia and quadriplegia and are used by individuals with disabilities primarily or exclusively in their homes. Those who support recognizing capuchin monkeys as service animals pointed out that they can perform manually dexterous work or tasks that dogs and miniature horses cannot. It was also pointed out that air travel for these monkeys as service animals could be limited to when individuals with disabilities have to leave home due to an emergency or for the initial delivery of the monkey to the individual with a disability.

3. Miniature Horses

There was also general support among disability rights advocates to provide, on a case-by-case basis, access to miniature horses trained to provide disability mitigation.[42] Miniature horses have specific features that make them a better choice for some persons with disabilities—longer working life, allergen avoidance, religious conformance, and soundness of structure for mobility work.

4. Cats

Some disability rights organizations (Paralyzed Veterans of America, National Alliance on Mental Illness, Autistic Self Advocacy Network, Bazelon Center for Mental Health Law, Easterseals, National Multiple Sclerosis Society) supported recognizing cats as service animals as there was a suggestion that cats provide disability mitigation related to seizure alert.

Airlines and certain other disability rights organizations (Psychiatric Service Dog Partners, Guide Dog Foundation for the Blind & America's VetDogs, International Association of Canine Professionals (IACP), Open Doors Organization, National Federation of the Blind, Assistance Dogs International, Guide Dog Users, Inc.) opposed recognizing cats as service animals as they are not recognized as service animals under the ADA and the information about cats' ability to alert individuals of seizures was limited.[43] There was also concern expressed that the popularity of cats as pets would open the door for fraud if they are an allowed species.

Number of Service Animals Per Passenger

During the negotiations, the advocates and airlines both appeared to agree that reasonable restrictions should be imposed on the number of service animals that one passenger should be permitted to carry. On balance, the advocates and airlines also appeared to agree that certain passengers may have a legitimate need to travel with more than one service animal. Both the airlines and advocates appear to support a requirement that a passenger seeking to travel with more than one service animal may be required to provide reasonable justification to the airline as to the passenger's need to do so. However, there did not appear to be agreement on what would constitute reasonable justification. The airlines also supported a limit of two service animals for any single passenger.[44] There did not appear to be agreement from the advocates on the number of service animals that a single passenger should be allowed to carry.

Documentation/Attestation

Various disability rights advocates have stated that a top goal is the elimination of the current DOT requirement to provide medical documentation as a condition of access for users of PSAs and ESAs. As a possible alternative to the documentation requirements for ESAs and PSAs in the current rule, the advocates on the committee proposed the use of a ''Decision Tree'' model. Under this model, all individuals with a disability who wished to travel with a service animal would fill out an online questionnaire, wherein they would provide answers to questions targeted toward assisting the airline to determine specifics about the service animal/emotional support animal in question (*e.g.,* species of animal, whether the animal is a service animal or an emotional support animal, and number of animals). During this process, information would also be provided to the passenger regarding his or her responsibilities when traveling with a service animal (*e.g.,* how a service animal should behave and the consequences for fraudulently representing a pet as a service animal).[45]

The majority of the U.S. airlines appeared to be receptive to the idea of the decision tree, but would only accept that option as an alternative to the current documentation requirements if it were made mandatory for all individuals with a disability traveling with a service animal to complete as a condition of travel, and if it included strong language designed to dissuade individuals from committing fraud by plainly stating the consequences that would follow should an individual attempt to falsely claim that their pet is a service animal.[46] The advocates were mostly opposed to making the decision tree mandatory because they believed that making it mandatory would increase the burden for service animal users who, under the current rule, are not required to provide documentation

[40] *Service Animal Advocates Position and Reasoning, p. 1 and 2* at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208* (September 15, 2016).

[41] *Id.* at 1, 4 and 6. See *Service Animal –Helping Hands Monkey Helper Presentation* at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0182* (August 26, 2016). See also *Carrier Response to Revised Service Animal Proposal 31 August Revised 8 September, p.2* at (*https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209*) (September 8, 2016).

[42] *Service Animal Advocates Position and Reasoning, p. 1, 3, 4, 5 and 6* at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208* (September 15, 2016).

[43] *Id.* at 2. See also *Carrier Response to Revised Service Animal Proposal 31 August Revised 8 September, p.2* at (*https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209*), (September 8, 2016).

[44] *Id.* at 3.

[45] *Service Animal Advocates Position and Reasoning, p. 16* at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208* (September 15, 2016).

[46] *See Carrier Response to Revised Service Animal Proposal 31 August Revised 8 September, p.1* at (*https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209*), (September 8, 2016).

or advance notice when traveling with a service animal. The foreign airlines appeared not to support the decision tree model even if mandatory.

Various suggestions were made as possible compromises, including a mandatory attestation statement that all individuals traveling with a service animal would certify in lieu of the proposed decision tree or existing documentation requirement for PSAs and ESAs. Under this alternative, individuals with disabilities traveling with a service animal would certify that their animal is a service animal on a one-page online certification form. The attestation language would serve the dual purpose of: (1) Educating individuals on what a service animal is and who is permitted to bring a service animal on board; and (2) dissuading individuals from trying to falsely claim that their pet is a service animal. It was also suggested that the attestation be saved in a traveler's profile so that a passenger would not be subject to the certification process repeatedly.

The advocates and the airlines appeared to support the attestation model as a deterrent to individuals who might seek to falsely claim that their pets are service animals.[47] However, the airlines also sought an additional requirement that individuals attest to having been diagnosed by a third party as having a disability. The advocates were not in favor of adding this requirement, arguing that that the term ''disability'' is a legal term and that all individuals with disabilities may not have necessarily received such a diagnosis, *e.g.,* a blind person does not typically receive a diagnosis that he or she is blind. Discussions eventually reached a stalemate on this point and the ACCESS Committee members voted to discontinue discussions on the service animal issue.

Request for Data and Comments

In this ANPRM, the Department solicits comment on the following issues: (1) Whether psychiatric service animals should be treated similar to other service animals; (2) whether there should be a distinction between emotional support animals and other service animals; (3) whether emotional support animals should be required to travel in pet carriers for the duration of the flight; (4) whether the species of service animals and emotional support animals that airlines are required to transport should be limited; (5) whether the number of service animals/emotional support animals should be limited per passenger; (6) whether an attestation should be required from all service animal and emotional support animal users that their animal has been trained to behave in a public setting; (7) whether service animals and emotional support animals should be harnessed, leashed, or otherwise tethered; (8) whether there are safety concerns with transporting large service animals and if so, how to address them; (9) whether airlines should be prohibited from requiring a veterinary health form or immunization record from service animal users without an individualized assessment that the animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin; and (10) whether U.S. airlines should continue to be held responsible if a passenger traveling under the U.S. carrier's code is only allowed to travel with a service dog on a flight operated by its foreign code share partner.

The Department is committed to ensuring access for service animal users on aircraft but also recognizes that airlines have a responsibility to ensure the health, safety, and welfare of passengers and employees. The Department requests data on the number of service animals that travel by air annually and the number of behavior-related service animal problems that occur annually. The Department also requests this data separately for emotional support animals if available. The Department is taking this action to ensure that the air transportation system is safe and accessible for everyone.

1. Psychiatric Service Animals

Should the DOT amend its service animal regulation so psychiatric service animals are treated the same as other service animals? DOT's current service animal regulation allows airlines to require a user of a psychiatric service animal or emotional support animal to provide airlines with medical documentation and up to 48 hours' advance notice prior to travel. This provision was adopted to address the problem of passengers attempting to pass their pets as ESAs or PSAs so they can travel for free in the aircraft cabin. We seek comments from airlines and other interested persons about their experiences with passengers attempting to pass off pets as service animals, especially as it may relate to PSAs.

Many PSA users feel that the DOT requirement stigmatizes and discriminates against people with mental health-related disabilities because individuals with physical disabilities or hidden medical disabilities who use service animals do not have to provide the same documentation as a service animal user with a mental health disability. What, if any, experience do airlines have with people attempting to bring pets on board aircraft based on claims that the animals are service animals for disabilities that are not readily apparent other than mental health-related conditions, such as seizure disorders or diabetes?

Also, PSAs are recognized as a service animal under DOJ's ADA regulation. Under the ADA regulations, the regulated entities may not require documentation as a condition for entry for service animals including PSAs. Should DOT harmonize its service animal regulation under the ACAA with DOJ's ADA service animal regulation and prohibit airlines from requiring PSA users to provide a letter from a licensed mental health professional as a condition for travel? If airlines are no longer allowed to require medical documentation from PSA users, what effective alternative methods are there to prevent fraud? For example, if there is no medical documentation requirement for PSAs but such a requirement remains for ESAs, what would prevent individuals from asserting that their ESA is a PSA? How would airline personnel be able to distinguish between a PSA and an ESA? We invite the public, particularly service animal users, to propose methods of detecting and preventing fraud that they believe are feasible alternatives to the current medical documentation requirements for PSAs. The Department notes that the ACAA is a specialized statute that applies to an environment where many people are confined within a limited space for what may be a prolonged time. Is that sufficient reason for DOT's treatment of PSAs under its ACAA regulation to differ from that of DOJ under its ADA regulation? What are the practical implications of no longer allowing airlines to require medical documentation from PSA users?

Psychiatric Service Dog Partners, Guide Dog Foundation for the Blind and America's VetDogs (United Service Animal Users) have provided the Department a report regarding the burden on PSA users of the current system's focus on third-party documentation. According to the report submitted by the United Service Animal Users, the average cost to a service animal user to obtain medial documentation is $156.77 and it takes an average of 31 days to obtain such a documentation. United Service Animal Users states that more than 75% of

[47] Service Animal-Vote Tally Sheet-3rd Party Documentation, Mandatory Attestation, at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0281.*

individuals surveyed have either not flown or flown less because of this requirement.[48] Do you agree with the data in this report? Explain the basis of your agreement or disagreement. Do the costs to users of PSAs of providing medical documentation outweigh the benefits to airlines of requiring such documentation?

Regarding the 48 hours' advance notice requirement for PSAs and ESAs, the Department put in place that requirement to provide airlines sufficient time to review and determine the validity of the medical documentation provided by the passenger. If the Department were no longer to allow airlines to require medical documentation from a PSA user, should the 48 hours' advance notice requirement be eliminated? We solicit comment on whether there is any reason to retain the advance notice requirement for PSAs if there is no longer a documentation requirement for PSAs. Also, what has been the impact of the 48 hours' notice requirement on individuals with psychiatric service animals?

2. Emotional Support Animals

The Department is seeking comment on whether it should continue to include ESAs in its definition of a service animal under the ACAA. ESAs are not recognized as service animals in regulations implementing the ADA. Unlike other service animals, ESAs are not trained to perform a specific active function, such as pathfinding, picking up objects, or responding to sounds. This has led some service animal advocacy groups to question their status as service animals and has led to concerns by carriers that permitting ESAs to travel in the cabin has opened the door to abuse by passengers wanting to travel with their pets. Airlines also assert that DOT should exclude emotional support animals from its definition of a service animal under the ACAA to be consistent with the definition of service animal under the ADA.

Others favored keeping emotional support animals as a separate and distinct category from service animals that are still entitled to protections under the ACAA. For example, the U.S. Department of Housing and Urban Development (HUD), which enforces the Fair Housing Act regulations, considers animals that provide emotional support to persons with disabilities to be assistance animals.[49] HUD allows housing providers to require a letter from a medical doctor or therapist to demonstrate that the animal is a legitimate assistance animal. The Department seeks comment on whether the amended definition of a service animal should include emotional support animals. Alternatively, the Department seeks comment on whether emotional support animals should be regulated separately and distinctly from service animals? If yes, should DOT allow airlines to require ESA users to provide a letter from a licensed mental health professional stating that the passenger is under his or her care for the condition requiring the ESA and specifying that the passenger needs the animal for an accommodation in air travel or at the passenger's destination? Would such a documentation requirement be stringent enough to prevent individuals who do not have disabilities from skirting the rules by falsely claiming that their pets are ESAs? Suggestions are welcome on approaches to minimize the use of letters from licensed mental health professionals that enable passengers without disabilities to evade airline policies on pets. Are there other types of documents or proof that could be required for carriage of ESAs in the passenger cabin that would be just as effective? Is advance notice of a passenger's intent to travel with an ESA needed to provide the airline time to review documents or other proof? If the documentation needed to fly with an ESA is rigid, would ESA users be less likely to fly and choose other modes of transportation? The Department seeks comment on the practical implications of these options.

3. Containment of Emotional Support Animals

If DOT adopts a rule that continues to require that ESAs be accepted for transport in the aircraft cabin, should DOT allow airlines to require that ESAs be in carriers for the duration of a flight? There appears to be a belief among airlines, a flight attendant association, and others that the increase in misbehavior by service animals on aircraft is largely attributed to the increase in use of emotional support animals. DOT requests any available information to confirm or dispel this belief. Further, because the ADA does not require airports to recognize or allow ESAs as service animals, some airports are requiring that emotional support animals be contained in a pet carrier when traversing through areas of the airport not owned, leased, or controlled by airlines. Considering these concerns, the Department seeks comment on when, if at all, should emotional support animals be contained in a pet carrier. What should be done if the emotional support animal is too large to fit in a pet carrier? Commenters should also consider that recent changes to aircraft configuration and seating, *e.g.,* economy seating vs. seating with extra leg room, means that there may be limitations with respect to containment requirements given the availability of passenger foot space.

4. Species Limitations

The Department seeks comment on what, if any, limitations on species should be imposed for service animals/emotional support animals. All major stakeholders—disability rights advocates, airlines, flight attendant associations—appear to agree that limiting the types of species recognized as service animals would provide greater predictability and prevent the erosion of the public's trust which could reduce access for individuals with disabilities. Some prefer that the Department limit coverage of service animals to dogs, which are the most common service animals used by individuals with disabilities. This is consistent with the DOJ definition of service animals under the ADA and the existing ACAA requirement for the type of service animal that foreign air carriers are required to transport. It is also our understanding that service dogs are by far the dominant type of animals used to assist individuals with disabilities. Although accounts of unusual service animals receive wide publicity, cases of unusual service animals, such as turkeys and pigs, being transported on aircraft are not common. As such, would limiting the species of recognized service animals to dogs cause harm to individuals with disabilities? We request data, if available, about the type of service animals that airlines transport year-over-year. The Department also seeks comment on whether any safety-related reasons specific to foreign carriers may preclude the carriage of service animals other than dogs on their flights.

Others would like for capuchin monkeys and miniature horses to also be recognized as service animals or, in the alternative, provided access on a case-by-case basis. Some individuals with disabilities prefer miniature horses to dogs because of allergies to dogs,

[48] See ACAA Third Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Users at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0296.*

[49] See Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs, FHEO Notice: FHEO–2013–01 at *https://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf,* (April 25, 2012).

religious reasons, or because miniature horses live longer, have excellent vision, and are better at assisting their owners with balance while walking. While DOJ does not recognize miniature horses as service animals, entities covered by the ADA are required to modify their policies to permit miniature horses where reasonable.[50] Those who advocate for recognizing a capuchin monkey as a service animal emphasize how essential the capuchin monkeys are in caring for individuals who are paralyzed or otherwise limited in mobility. DOJ, in deciding not to recognize capuchin monkeys in its definition of service animals for purposes of its regulation implementing the ADA noted ''their potential for disease transmission and unpredictable aggressive behavior.'' 75 FR 56164, 56194 (September 5, 2010). Subject to existing applicable health and safety regulations,[51] should the DOT designate capuchin monkeys or miniature horses as service animals under the ACAA? Can the health and safety concerns related to capuchin monkeys be adequately addressed if there was a requirement that these animal travel in pet carriers? The Department also seeks comment on whether any amended service animal rule should designate cats or any other animal as eligible species to be a service animal.

If the Department were to adopt a rule that continues to require airlines to accept ESAs for transport, what species of animals should be accepted as ESAs? During the Department's ACCESS Committee meetings, the four species that were mentioned as possibilities are dogs, cats, rabbits, and household birds. Should the Department limit the transport of ESAs to dogs particularly if a service animal is defined to be a dog? What is the impact on passengers with disabilities if an ESA is limited to dogs? Are cats, rabbits, and birds common emotional support animals? Are there any other emotional support animals that are widely used by individuals with disabilities?

5. Number of Service Animals Per Passenger

The Department's service animal rule does not limit the number of service animals that one passenger may bring on an aircraft. A single passenger legitimately may have more than one service animal. For example, a person who is deaf and has panic attacks may use one service animal to alert him or her to sounds and another to calm him or her. A person may also need more than one animal for the same task, such as assisting with stability when walking. However, the Department's Office of Aviation Enforcement and Proceedings, as a matter of prosecutorial discretion, has chosen not to pursue action against carriers that refuse to accept more than three service animals per person. The Department seeks comment on whether to limit the number service animals/emotional support animals that a single passenger may carry onboard a flight. If so, what should the number limit be? The Department also seeks comment on whether justification should be required for a single passenger to be allowed to carry more than one service animal/emotional support animal. If so, what would the parameters of that justification be?

6. Social Behavior Training

A4A and others have urged the Department to revise its service animal regulation to address an increase in passengers bringing animals onboard that have not been appropriately trained as service animals.[52] The guidance document referenced in the Department's service animal regulation states that an animal that engages in disruptive behavior, such as running around freely in the aircraft or airport, barking, or growling repeatedly at people, biting, and jumping on people, or urinating or defecating in the cabin or gate area, shows that it has not been successfully trained to function as a service animal in a public setting. Airlines are not required to accept for transport animals that do not behave properly in public; on the other hand, the regulation does not specify how an airline can be assured that a service animal has been trained to behave appropriately in a public setting. Airlines also explained of the difficulties their employees experience in observing animal behavior prior to a flight given the lack of staffing and the hectic and time-sensitive nature of air travel. The Department seeks comment on whether it should amend its service animal regulation to allow airlines to require that all service animal users attest that their animal can behave properly in a public setting. The Department also solicits comments on alternatives to a documentation requirement to assess the service animal's behavior.

The ADA prohibits covered entities from requiring documentation, such as proof that the service animal has been trained to behave appropriately as a condition for entry. Is the need for assurance that the service animal can behave properly greater in air travel, as air travel involves people being in a limited space for a prolonged period without the ability to freely leave once onboard the aircraft? Would a provision allowing airlines to require service animal users attest that their animal has been successfully trained to function as a service animal in a public setting reduce the safety risk that passengers, airline staff, and other service animals face from untrained service animals? What is the impact on individuals with disabilities of allowing airlines to require attestation as a condition for permitting an individual to travel with his or her service animal? If such a provision is allowed, should airlines be able to require the attestation in advance of travel? How long in advance of travel? What options exist for preventing any advance documentation requirement from being a barrier to travel for people with disabilities? What is the proper balance between ensuring passengers with disabilities do not encounter barriers to air travel and protecting the health and safety of passengers and airline crew? If DOT allows airlines to require attestation that an animal has received public access training, should the attestation be limited to certain types of service animals? Why or why not?

7. Control of the Service Animal

DOT expects that a service animal will be under the control of its user, but DOT's service animal regulation does not contain any leash, tether, or harness requirement. We seek comment on whether tethering or other similar restrictions should be a condition for permitting travel with a service animal. The DOJ's service animal regulation requires that dogs and miniature horses be harnessed, leashed or tethered unless the device interferes with the animal's work or the individual with a disability is unable to hold a tether because of his or her disability. In such cases, the individual with a disability may control his service animal by some other means, such as voice control. Should DOT adopt a similar requirement? Would such a requirement further minimize the likelihood of unwelcome or injurious behavior by a service animal to other passengers or airline staff? What are the

[50] See 28 CFR 36.302.

[51] The Centers for Disease Control and Prevention's (CDC) regulation on the importation of nonhuman primates prohibits the importation of a nonhuman primate, which includes capuchin monkeys, into the United States unless the person is a registered importer with the CDC. See 42 CFR71.53.

[52] Comments of Airlines for America Part II—Proposals for Repeal or Amendment of Specific DOT Economic Regulations, DOT, DOT–OST–2017–0069–2751 at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2751,* (January 31, 2018).

advantages or disadvantages in adopting this type of requirement?

8. Large Service Animals

Airlines have also expressed safety concerns about large service animals in the cabin, particularly large emotional support animals that have not received disability-mitigation training. Some airlines have urged the Department to consider instituting size and weight restrictions for emotional support animals. The current rule contemplates that a service animal would not be permitted to accompany its user at his or her seat if the animal blocks a space that, per FAA or applicable foreign government safety regulations, must remain unobstructed (*e.g.,* an aisle, access to an emergency exit) *and* the passenger and animal cannot be moved to another location where such a blockage does not occur. The Department provides guidance in the current rule that if the passenger and animal cannot be moved, carriers should first talk with other passengers to find a seat location where the service animal and its user can be agreeably accommodated (*e.g.,* by finding a passenger who is willing to share foot space with the animal).[53]

While the Department previously concluded that a service animal's reasonable use of a portion of an adjacent seat's foot space does not deny another passenger effective use of the space for his or her feet and is not an adequate reason for the carrier to refuse to permit the animal to accompany its user at his or her seat, some airlines have indicated that passengers feel pressured to agree to such an arrangement and have later expressed to airline personnel their dissatisfaction at having to share their foot space. The Department seeks comment on whether it should allow airlines to limit the size of emotional support animals or other service animals that travel in the cabin and the implications of such a decision. The Department also seeks comment on whether passengers would find it burdensome to share foot space with service animals and what concerns passengers might have with such an arrangement.

9. Veterinary Forms

Recently, a few airlines have begun requiring service animal users to provide information about their animal's health and behavior as a condition for travel. These airlines state that there has been a significant increase in the number of service animal/emotional support animal transportation requests they receive as well as an increase in reported animal incidents of misbehavior, including urination, defecation, and biting. The airlines assert that the health and behavior records of the animals are necessary to protect their customers, employees and other service animals on board aircraft should they be bitten.[54] They also contend that producing animal health records would not be burdensome for service animal users as most, if not all, States require animals to be vaccinated. We ask airlines for available data on how many incidents of misbehavior, particularly incidents of biting, airlines have experienced, as well as any data demonstrating an increase in these incidents. What amount of increase in animal misbehavior, if any, is sufficient to warrant a general requirement for a veterinary form regarding the health and behavior of a service animal without an individualized assessment that a service animal or emotional support animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin? We ask passengers with disabilities to provide information regarding what, if any, burdens may exist should they be required to submit veterinary forms related to the health or behavior of their service animal.

The American Veterinary Medical Association (AVMA) has raised concerns with the Department about airlines' service animal forms, which require veterinarians to attest to the animal's behavior as well as the animal's health. The AVMA explained to the Department that veterinarians cannot guarantee the behavior of an animal particularly in a new environment like an aircraft but can provide information based on their observations of the animal during a physical examination and discussions with the animal's owner regarding whether the animal has been aggressive in the past. AVMA emphasized to the Department that expanding the scope of the veterinary form beyond health information of the animal and behavioral information of the animal based on the veterinarian's observations could lead to refusals by veterinarians to fill out these forms, which would result in more service animals being denied air transportation.

Through discussions with representatives of many disability rights organizations and a joint letter from ten disability rights organizations, the Department is aware of some of the concerns of service animal users. Psychiatric Service Dog Partners stated that any requirement for health or other forms that applies to PSAs without applying to other service animals is discriminatory. The American Council of the Blind (ACB), the National Federation of the Blind (NFB), and other disability rights organizations pointed out that blind people have used guide dogs safely for decades and should not now have barriers placed on travel. Other disability organizations, such as Paralyzed Veterans of America, emphasized that the airlines should not be requiring such forms unless the airline determines that the animal would pose a direct threat to the health or safety of others or would cause a significant disruption of cabin service based on an individualized assessment.

Disability rights advocates also pointed out that the way airlines implement their policies for veterinarian forms may be problematic and negatively impact passengers with disabilities. For example, airline policies that all or certain service animal users provide a veterinarian form related to the health or behavior of their animal 48 hours in advance of scheduled travel means persons with disabilities are unable to fly should there be an emergency. Policies that animals be visually verified at airport check-in would prevent the ability of passengers with disabilities to check-in online like other passengers. Airlines establishing their own policies for travel with a service animal could also mean a patchwork of service animal access requirements, making it difficult for persons with disabilities to know what to expect and how to prepare for travel. The Department seeks comment on whether its service animal regulation should explicitly prohibit airlines from requiring veterinarian forms as a condition for permitting travel with a service animal beyond those specifically allowed by the Department in its regulation unless there is individualized assessment that such a documentation is necessary. If veterinarian forms are not allowed to be required as a condition for travel, what about other types of documentation to ensure that the animal is not a public health risk to humans? Specifically, the Department seeks comment on whether airlines should be allowed to require that service animal users provide evidence that the animal

[53] See Guidance Concerning Service Animals, 73 FR 27614, 27660 (May 13, 2008).

[54] An airline may refuse transportation of a service animal if the animal would pose a direct threat to the health or safety of others. However, the Department's regulation does not clearly specify whether airlines must make this direct threat assessment on an individualized case-by-case basis. The DOT guidance document referenced in the regulation does suggest that the direct threat should be individualized as it states that the analysis should be based on observable actions

is current on the rabies vaccine as that vaccine is required by all 50 states for dogs and by most states for cats. Finally, should airlines be permitted to require passengers to obtain signed statements from veterinarians regarding the animal's behavior. And if so, what recourse should be available for service animal users if the veterinarian refuses to fill out the behavior form.

10. Code-Share Flights

Currently, foreign airlines are only required to transport service dogs, including emotional support and psychiatric service dogs, barring a conflict with a foreign nation's legal requirements. However, a U.S. carrier that code-shares with a foreign carrier could legally be held liable for its foreign codes-share partner's failure to transport other service animal species on code-share flights. While the Department's Office of Aviation Enforcement and Proceedings has not taken action against U.S. carriers under these circumstances, the Department seeks comment on whether the rule should explicitly state that U.S. carriers would not be held responsible for its foreign code-share partner's refusal to transport transportation service animals other than dogs.

Regulatory Notices

A. Executive Order 13771, 12866 and 13563 and DOT's Regulatory Policies and Procedures

This action has been determined to be significant under Executive Order 12866, as amended by Executive Order 13563, and the Department of Transportation's Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget under that Order. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' Additionally, Executive Orders 12866 and 13563 require agencies to provide a meaningful opportunity for public participation. Accordingly, we have asked commenters to answer a variety of questions to elicit practical information about alternative approaches and relevant technical data. These comments will help the Department evaluate whether a proposed rulemaking is needed and appropriate. This action is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because it is an advance notice of proposed rulemaking.

B. Executive Order 13132 (Federalism)

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (Federalism). This document does not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13084

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments). Because none of the topics on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft (*i.e.,* aircraft with up to 60 seats/18,000-pound payload capacity). See 14 CFR 399.73. If the Department proposes to adopt the regulatory initiative discussed in this ANPRM, it is possible that it may have some impact on some small entities but we do not believe that it would have a significant economic impact on a substantial number of small entities. We invite comment to facilitate our assessment of the potential impact of these initiatives on small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no person is required to respond to a collection of information unless it displays a valid OMB control number. This ANPRM does not propose any new information collection burdens.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this document.

G. National Environmental Policy Act

The Department has analyzed the environmental impacts of this ANPRM pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.6.i of DOT Order 5610.1C categorically excludes ''[a]ctions relating to consumer protection, including regulations.'' The purpose of this rulemaking is to seek public comment on the Department's service animal regulations. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Issued this 9th day of May, 2018, in Washington, DC under authority delegated in 49 CFR Part 1.27(n).

James C. Owens,

Deputy General Counsel.

[FR Doc. 2018–10815 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–9X–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AE71

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is seeking comment on

proposed amendments to the margin requirements for uncleared swaps for swap dealers (''SD'') and major swap participants (''MSP'') for which there is no prudential regulator (''CFTC Margin Rule''). The Commission is proposing these amendments in light of the rules recently adopted by the Board of Governors of the Federal Reserve System (''Board''), the Federal Deposit Insurance Corporation (''FDIC''), and the Office of the Comptroller of the Currency (''OCC'') (collectively, the ''QFC Rules'') that impose restrictions on certain uncleared swaps and uncleared security-based swaps and other financial contracts. Specifically, the Commission proposes to amend the definition of ''eligible master netting agreement'' in the CFTC Margin Rule to ensure that master netting agreements of firms subject to the CFTC Margin Rule are not excluded from the definition of ''eligible master netting agreement'' based solely on such agreements' compliance with the QFC Rules. The Commission also proposes that any legacy uncleared swap (*i.e.,* an uncleared swap entered into before the applicable compliance date of the CFTC Margin Rule) that is not now subject to the margin requirements of the CFTC Margin Rule would not become so subject if it is amended solely to comply with the QFC Rules. These proposed amendments are consistent with proposed amendments that the Board, FDIC, OCC, the Farm Credit Administration (''FCA''), and the Federal Housing Finance Agency (''FHFA'' and, together with the Board, FDIC, OCC, and FCA, the ''Prudential Regulators''), jointly published in the **Federal Register** on February 21, 2018.

DATES: Comments must be received on or before July 23, 2018.

ADDRESSES: You may submit comments, identified by RIN 3038–AE71, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above. Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Matthew Kulkin, Director, (202) 418–5213, *mkulkin@cftc.gov*; Frank Fisanich, Chief Counsel, (202) 418–5949, *ffisanich@cftc.gov*; Katherine Driscoll, Associate Chief Counsel, (202) 418–5544, *kdriscoll@cftc.gov*; or Jacob Chachkin, Special Counsel, (202) 418–5496, *jchachkin@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Dodd-Frank Act and the CFTC Margin Rule

On July 21, 2010, President Obama signed the Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[2] Title VII of the Dodd-Frank Act amended the Commodity Exchange Act (''CEA'')[3] to establish a comprehensive regulatory framework designed to reduce risk, to increase transparency, and to promote market integrity within the financial system by, among other things: (1) Providing for the registration and regulation of SDs and MSPs; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to all registered entities and intermediaries subject to the Commission's oversight.

Section 731 of the Dodd-Frank Act added a new section 4s to the CEA setting forth various requirements for SDs and MSPs. In particular, section 4s(e) of the CEA directs the Commission to adopt rules establishing minimum initial and variation margin requirements on all swaps[4] that are (i) entered into by an SD or MSP for which there is no Prudential Regulator[5] (collectively, ''covered swap entities'' or ''CSEs'') and (ii) not cleared by a registered derivatives clearing organization (''uncleared swaps'').[6] To offset the greater risk to the SD or MSP[7] and the financial system arising from the use of uncleared swaps, these requirements must (i) help ensure the safety and soundness of the SD or MSP and (ii) be appropriate for the risk associated with the uncleared swaps held as an SD or MSP.[8]

To this end, the Commission promulgated the CFTC Margin Rule in January 2016,[9] establishing requirements for a CSE to collect and

[1] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR chapter I.

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[3] 7 U.S.C. 1 *et seq.*

[4] For the definition of swap, *see* section 1a(47) of the CEA and Commission regulation 1.3. 7 U.S.C. 1a(47) and 17 CFR 1.3. It includes, among other things, an interest rate swap, commodity swap, credit default swap, and currency swap.

[5] *See* 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a Prudential Regulator must meet the margin requirements for uncleared swaps established by the applicable Prudential Regulator. 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term ''Prudential Regulator'' to include the Board; the OCC; the FDIC; the FCA; and the FHFA). The definition further specifies the entities for which these agencies act as Prudential Regulators. The Prudential Regulators published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (''Prudential Margin Rule'').

[6] *See* 7 U.S.C. 6s(e)(2)(B)(ii). In Commission regulation 23.151, the Commission further defined this statutory language to mean all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that the Commission has exempted from registration as provided under the CEA. 17 CFR 23.151.

[7] For the definitions of SD and MSP, *see* section 1a of the CEA and Commission regulation 1.3. 7 U.S.C. 1a and 17 CFR 1.3.

[8] 7 U.S.C. 6s(e)(3)(A).

[9] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). The CFTC Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission's regulations. 17 CFR 23.150–23.159, 23.161.

post initial [10] and variation margin [11] for uncleared swaps, which requirements vary based on the type of counterparty to such swaps.[12] These requirements generally apply only to uncleared swaps entered into on or after the compliance date applicable to a particular CSE and its counterparty (''covered swap'').[13] An uncleared swap entered into prior to a CSE's applicable compliance date for a particular counterparty (''legacy swap'') is generally not subject to the margin requirements in the CFTC Margin Rule.[14]

To the extent that more than one uncleared swap is executed between a CSE and its covered counterparty, the CFTC Margin Rule permits the netting of required margin amounts of each swap under certain circumstances.[15] In particular, the CFTC Margin Rule, subject to certain limitations, permits a CSE to calculate initial margin and variation margin, respectively, on an aggregate net basis across uncleared swaps that are executed under the same eligible master netting agreement (''EMNA'').[16] Moreover, the CFTC Margin Rule permits swap counterparties to identify one or more separate netting portfolios (*i.e.,* a specified group of uncleared swaps the margin obligations of which will be netted only against each other) under the same EMNA, including having separate netting portfolios for covered swaps and legacy swaps.[17] A netting portfolio that contains only legacy swaps is not subject to the initial and variation margin requirements set out in the CFTC Margin Rule.[18] However, if a netting portfolio contains any covered swaps, the entire netting portfolio (including all legacy swaps) is subject to such requirements.[19]

A legacy swap may lose its legacy treatment under the CFTC Margin Rule, causing it to become a covered swap and causing any netting portfolio in which it is included to be subject to the requirements of the CFTC Margin Rule. For reasons discussed in the CFTC Margin Rule, the Commission elected not to extend the meaning of legacy swaps to include (1) legacy swaps that are amended in a material or nonmaterial manner; (2) novations of legacy swaps; and (3) new swaps that result from portfolio compression of legacy swaps.[20] Therefore, and as relevant here, a legacy swap that is amended after the applicable compliance date may become a covered swap subject to the initial and variation margin requirements in the CFTC Margin Rule, and netting portfolios that were intended to contain only legacy swaps and, thus, not be subject to the CFTC Margin Rule may become so subject.

B. The QFC Rules

In late 2017, as part of the broader regulatory reform effort following the financial crisis to promote U.S. financial stability and increase the resolvability and resiliency of U.S. global systemically important banking institutions (''U.S. GSIBs'') [21] and the U.S. operations of foreign global systemically important banking institutions (together with U.S. GSIBS, ''GSIBs''), the Board, FDIC, and OCC adopted the QFC Rules. The QFC Rules establish restrictions on and requirements for uncleared qualified financial contracts [22] (collectively, ''Covered QFCs'') of GSIBs, the subsidiaries of U.S. GSIBs, and certain other very large OCC-supervised national banks and Federal savings associations (collectively, ''Covered QFC Entities'').[23] They are designed to help ensure that a failed company's passage through a resolution proceeding—such as bankruptcy or the special resolution process created by the Dodd-Frank Act—would be more orderly, thereby helping to mitigate destabilizing effects on the rest of the financial system.[24] To help achieve this goal, the QFC Rules respond in two ways.[25]

First, the QFC Rules generally require the Covered QFCs of Covered QFC Entities to contain contractual provisions explicitly providing that any default rights or restrictions on the transfer of the Covered QFC are limited to the same extent as they would be

[10] Initial margin, as defined in Commission regulation 23.151 (17 CFR 23.151), is the collateral (calculated as provided by § 23.154 of the Commission's regulations) that is collected or posted in connection with one or more uncleared swaps. Initial margin is intended to secure potential future exposure following default of a counterparty (*i.e.,* adverse changes in the value of an uncleared swap that may arise during the period of time when it is being closed out), while variation margin is provided from one counterparty to the other in consideration of changes that have occurred in the mark-to-market value of the uncleared swap. *See* CFTC Margin Rule, 81 FR at 664 and 683.

[11] Variation margin, as defined in Commission regulation 23.151 (17 CFR 23.151), is the collateral provided by a party to its counterparty to meet the performance of its obligation under one or more uncleared swaps between the parties as a result of a change in the value of such obligations since the trade was executed or the last time such collateral was provided.

[12] *See* Commission regulations 23.152 and 23.153, 17 CFR 23.152 and 23.153. For example, the CFTC Margin Rule does not require a CSE to collect margin from, or post margin to, a counterparty that is neither a swap entity nor a financial end user (each as defined in 17 CFR 23.151). Pursuant to section 2(e) of the CEA, 7 U.S.C. 2(e), each counterparty to an uncleared swap must be an eligible contract participant (''ECP''), as defined in section 1a(18) of the CEA, 7 U.S.C. 1a(18).

[13] Pursuant to Commission regulation 23.161, compliance dates for the CFTC Margin Rule are staggered such that SDs must come into compliance in a series of phases over four years. The first phase affected SDs and their counterparties, each with the largest aggregate outstanding notional amounts of uncleared swaps and certain other financial products. These SDs began complying with both the initial and variation margin requirements of the CFTC Margin Rule on September 1, 2016. The second phase began March 1, 2017, and required SDs to comply with the variation margin requirements of Commission regulation 23.153 with all relevant counterparties not covered in the first phase. *See* 17 CFR 23.161.

[14] *See* CFTC Margin Rule, 81 FR at 651 and Commission regulation 23.161. 17 CFR 23.161.

[15] *See* CFTC Margin Rule, 81 FR at 651 and Commission regulations 23.152(c) and 23.153(d). 17 CFR 23.152(c) and 23.153(d).

[16] *Id.* The term EMNA is defined in Commission regulation 23.151. 17 CFR 23.151. Generally, an EMNA creates a single legal obligation for all individual transactions covered by the agreement upon an event of default following certain specified permitted stays. For example, an International Swaps and Derivatives Association (''ISDA'') form Master Agreement may be an EMNA, if it meets the specified requirements in the EMNA definition.

[17] *See* CFTC Margin Rule, 81 FR at 651 and Commission regulations 23.152(c)(2)(ii) and 23.153(d)(2)(ii). 17 CFR 23.152(c)(2)(ii) and 23.153(d)(2)(ii).

[18] *Id.*

[19] *Id.*

[20] *See* CFTC Margin Rule, 81 FR at 675. The Commission notes that certain limited relief has been given from this standard. *See* CFTC Staff Letter No. 17–52 (Oct. 27. 2017), available at *http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/17-52.pdf.*

[21] *See* 12 CFR 217.402 (defining global systemically important banking institution).

[22] Qualified financial contract (''QFC'') is defined in section 210(c)(8)(D) of the Dodd-Frank Act to mean any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the FDIC determines by regulation, resolution, or order to be a qualified financial contract. 12 U.S.C. 5390(c)(8)(D).

[23] *See, e.g.,* 12 CFR 252.82(c) (defining Covered QFC). *See also* 82 FR 42882 (Sep. 12, 2017) (for the Board's QFC Rule). *See also* 82 FR 50228 (Oct. 30, 2017) (for FDIC's QFC Rule). *See also* 82 FR 56630 (Nov. 29, 2017) (for the OCC's QFC Rule). The effective date of the Board's QFC Rule is November 13, 2017, and the effective date for the OCC's QFC Rule and the substance of the FDIC's QFC Rule is January 1, 2018. The QFC Rules include a phased-in conformance period for a Covered QFC Entity, beginning on January 1, 2019 and ending on January 1, 2020, that varies depending upon the counterparty type of the Covered QFC Entity. *See, e.g.,* 12 CFR 252.82(f).

[24] *See, e.g.,* Board's QFC Rule at 42883. In particular, the QFC Rules seek to facilitate the orderly resolution of a failed GSIB by limiting the ability of the firm's Covered QFC counterparties to terminate such contracts immediately upon entry of the GSIB or one of its affiliates into resolution. Given the large volume of QFCs to which covered entities are a party, the exercise of default rights en masse as a result of the failure or significant distress of a covered entity could lead to failure and a disorderly resolution if the failed firm were forced to sell off assets, which could spread contagion by increasing volatility and lowering the value of similar assets held by other firms, or to withdraw liquidity that it had provided to other firms.

[25] *Id.*

pursuant to the Federal Deposit Insurance Act (''FDI Act'')[26] and Title II of the Dodd-Frank Act, thereby reducing the risk that those regimes would be challenged by a court in a foreign jurisdiction.[27]

Second, the QFC Rules generally prohibit Covered QFCs from allowing counterparties to Covered QFC Entities to exercise default rights related, directly or indirectly, to the entry into resolution of an affiliate of the Covered QFC Entity (''cross-default rights'').[28] This is to ensure that counterparties of solvent affiliates of a failed entity cannot terminate their contracts with the solvent affiliate based solely on that failure.[29]

Covered QFC Entities are required to enter into amendments to certain pre-existing Covered QFCs to explicitly provide for these requirements and to ensure that Covered QFCs entered into after the applicable compliance date for the rule explicitly provide for the same.[30]

II. Proposed Changes to the CFTC Margin Rule (''Proposal'')

A. Proposed Amendment to the Definition of EMNA in Commission Regulation 23.151

As noted above, the current definition of EMNA in Commission regulation 23.151 allows for certain specified permissible stays of default rights of the CSE. Specifically, consistent with the QFC Rules, the current definition provides that such rights may be stayed pursuant to a special resolution regime such as Title II of the Dodd-Frank Act, the FDI Act, and substantially similar foreign resolution regimes.[31] However, the current EMNA definition does not explicitly recognize certain restrictions on the exercise of a CSE's cross-default rights required under the QFC Rules.[32] Therefore, a pre-existing EMNA that is amended in order to become compliant with the QFC Rules or a new master netting agreement that conforms to the QFC Rules will not meet the current definition of EMNA. A CSE that is a counterparty under such a master netting agreement—one that does not meet the definition of EMNA—would be required to measure its exposures from covered swaps on a gross basis, rather than aggregate net basis, for purposes of the CFTC Margin Rule.[33]

The Commission wants to protect market participants from being disadvantaged due to their master netting agreements not meeting the requirements of an EMNA solely as a result of such agreements' compliance with the QFC Rules. Accordingly, the Commission proposes to add a new paragraph (2)(ii) to the definition of ''eligible master netting agreement'' in Commission regulation 23.151 and make other minor related changes to that definition such that a master netting agreement may be an EMNA even though the agreement limits the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 47, subpart I of part 252, or part 382 of title 12, as applicable. These enumerated provisions contain the relevant requirements that have been added by the QFC Rules.

B. Proposed Amendment to Commission Regulation 23.161, Compliance Dates

Covered QFC Entities must conform to the requirements of the QFC Rules for Covered QFCs entered into on or after January 1, 2019 and, in some instances, Covered QFCs entered into before that date.[34] To do so, a Covered QFC Entity may need to amend the contractual provisions of its pre-existing Covered QFCs.[35] Legacy swaps that are so amended by a Covered QFC Entity and its counterparty would become covered swaps under the current CFTC Margin Rule.[36] Therefore, in order not to disadvantage market participants who are parties to legacy swaps that are required to be amended to comply with the QFC Rules, the Commission proposes to amend the CFTC Margin Rule such that a legacy swap will not be a covered swap under the CFTC Margin Rule if it is amended solely to conform to the QFC Rules. That is, the Commission proposes to add a new paragraph (d) to the end of Commission regulation 23.161, as shown in the proposed rule text in this document.

This proposed addition is intended to provide certainty to a CSE and its counterparties about the treatment of legacy swaps and any applicable netting arrangements in light of the QFC Rules. However, if, in addition to amendments required to comply with the QFC Rules, the parties enter into any other amendments, the amended legacy swap will be a covered swap in accordance with the application of the existing CFTC Margin Rule.

C. Consistent With the Proposed Amendments to the Prudential Margin Rule

The amendments to the CFTC Margin Rule described above are consistent with proposed amendments to the Prudential Margin Rule that the Prudential Regulators jointly published in the **Federal Register** on February 21, 2018.[37] Proposing amendments to the CFTC Margin Rule that are consistent with those proposed by the Prudential Regulators furthers the Commission's efforts to harmonize its margin regime with the Prudential Regulators' margin regime and is responsive to suggestions received as part of the Commission's Project KISS initiative.[38]

[26] 12 U.S.C. 1811 *et seq.*

[27] *See, e.g.,* Board's QFC Rule at 42883 and 42890 and 12 CFR 252.83(b).

[28] *See, e.g.,* Board's QFC Rule at 42883 and 12 CFR 252.84(b). Covered QFC Entities are similarly generally prohibited from entering into Covered QFCs that would restrict the transfer of a credit enhancement supporting the Covered QFC from the Covered QFC Entity's affiliate to a transferee upon the entry into resolution of the affiliate. *See, e.g.,* Board's QFC Rule at 42890 and 12 CFR 252.84(b)(2).

[29] *Id.*

[30] *See, e.g.,* 12 CFR 252.82(a) and (c). The QFC Rules require a Covered QFC Entity to conform Covered QFCs (i) entered into, executed, or to which it otherwise becomes a party on or after January 1, 2019 or (ii) entered into, executed, or to which it otherwise became a party before January 1, 2019, if the Covered QFC Entity or any affiliate that is a Covered QFC Entity also enters, executes, or otherwise becomes a party to a new Covered QFC with the counterparty to the pre-existing Covered QFC or a consolidated affiliate of the counterparty on or after January 1, 2019.

[31] 17 CFR 23.151.

[32] *Id.*

[33] *See* CFTC Margin Rule, 81 FR at 651 and Commission regulations 23.152(c) and 23.153(d). 17 CFR 23.152(c) and 23.153(d).

[34] *See supra,* n.30.

[35] *Id.*

[36] *See supra,* n.20. Note, therefore, that such amendment would affect all parties to the legacy swap, not only the Covered QFC Entity subject to the QFC Rules.

[37] Margin and Capital Requirements for Covered Swap Entities; Proposed Rule, 83 FR 7413 (Feb. 21, 2018).

[38] *See* Project KISS Initiatives, available at *https://comments.cftc.gov/KISS/KissInitiative.aspx.* The Commission received requests to coordinate revisions to the CFTC Margin Rule with the Prudential Regulators. *See* comments from Credit Suisse (''CS''), the Financial Services Roundtable (''FSR''), ISDA, the Managed Funds Association (''MFA''), and SIFMA Global Foreign Exchange Division (''GFMA''). GFMA requested that the Commission coordinate with the Prudential Regulators on proposing or making any changes to the CFTC Margin Rule to ensure harmonization and consistency across the respective rule sets. In addition, CS, FSR, ISDA, and MFA, as well as GFMA requested that the Commission make certain specific changes to the CFTC Margin Rule in coordination with the Prudential Regulators relating to, for example, initial margin calculations and requirements, margin settlement timeframes, netting product sets, inter-affiliate margin exemptions, and cross-border margin issues. Project KISS suggestions are available at *https://comments.cftc.gov/KISS/KissInitiative.aspx.*

III. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[39] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number. This Proposal contains no requirements subject to the PRA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities.[40] This Proposal only affects certain SDs and MSPs that are subject to the QFC Rules and their covered counterparties, all of which are required to be ECPs.[41] The Commission has previously determined that SDs, MSPs, and ECPs are not small entities for purposes of the RFA.[42] Therefore, the Commission believes that this Proposal will not have a significant economic impact on a substantial number of small entities, as defined in the RFA.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that this Proposal will not have a significant economic impact on a substantial number of small entities. The Commission invites comment on the impact of this Proposal on small entities.

C. Cost-Benefit Considerations

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations.

This Proposal prevents certain CSEs and their counterparties from being disadvantaged because their master netting agreements do not satisfy the definition of an EMNA, solely because such agreements' comply with the QFC Rules or because such agreements would have to be amended to achieve compliance. It revises the definition of EMNA such that a master netting agreement that meets the requirements of the QFC Rules may be an EMNA and provides that an amendment to a legacy swap solely to conform to the QFC Rules will not cause that swap to be a covered swap under the CFTC Margin Rule.

The baseline against which the benefits and costs associated with this Proposal is compared is the uncleared swaps markets as they exist today, with the QFC Rules in effect.[43] With this as the baseline for this Proposal, the following are the benefits and costs of this Proposal.

1. Benefits

As described above, this Proposal will allow parties whose master netting agreements satisfy the proposed revised definition of EMNA to continue to calculate initial margin and variation margin, respectively, on an aggregate net basis across uncleared swaps that are executed under that EMNA. Otherwise, a CSE that is a counterparty under a master netting agreement that complies with the QFC Rules and, thus, does not satisfy the current definition of EMNA, would be required to measure its exposures from covered swaps on a gross basis for purposes of the CFTC Margin Rule. In addition, this Proposal allows legacy swaps to maintain their legacy status, notwithstanding that they are amended to comply with the QFC Rules. Otherwise, such swaps would become covered swaps subject to initial and variation margin requirements under the CFTC Margin Rule. This Proposal provides certainty to CSEs and their counterparties about the treatment of legacy swaps and any applicable netting arrangements in light of the QFC Rules.

2. Costs

Because this Proposal (i) will solely expand the definition of EMNA to potentially include those master netting agreements that meet the requirements of the QFC Rules and allow the amendment of legacy swaps solely to conform to the QFC Rules without causing such swaps to become covered swaps and (ii) does not require market participants to take any action to benefit from these changes, the Commission believes that this Proposal will not impose any additional costs on market participants.

3. Section 15(a) Considerations

In light of the foregoing, the CFTC has evaluated the costs and benefits of this Proposal pursuant to the five considerations identified in section 15(a) of the CEA as follows:

(a) Protection of Market Participants and the Public

As noted above, this Proposal will protect market participants by allowing them to comply with the QFC Rules without being disadvantaged under the CFTC Margin Rule. This Proposal will allow market participants to hedge more, because without this Proposal, posting gross margin would be more costly to transact and thus likely reduce the amount of hedging for market participants.

(b) Efficiency, Competitiveness, and Financial Integrity of Markets

This Proposal will make the uncleared swap markets more efficient by not requiring the payment of gross margin under EMNAs that are amended pursuant to the QFC Rules. Absent this Proposal, market participants that are required to amend their EMNAs to comply with the QFC Rules and, thereafter, required to measure their exposure on a gross basis and to post margin on their legacy swaps, would be placed at a competitive disadvantage as compared to those market participants that are not so required to amend their EMNAs. Therefore, this Proposal may increase the competitiveness of the uncleared swaps markets.

(c) Price Discovery

This Proposal prevents the payment of gross margin, which would result in additional costs to swaps transactions. This Proposal could potentially reduce the cost to transact these swaps, and thus might lead to more trading, which could potentially improve liquidity and benefit price discovery.

(d) Sound Risk Management

This Proposal prevents the payment of gross margin, which does not reflect true economic counterparty credit risk for swap portfolios transacted with counterparties. Therefore, this Proposal supports sound risk management.

[39] 44 U.S.C. 3501 *et seq.*

[40] 5 U.S.C. 601 *et seq.*

[41] *See supra,* n.12.

[42] *See* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) (SDs and MSPs) and Opting Out of Segregation, 66 FR 20740, 20743 (April 25, 2001) (ECPs).

[43] Although, as described above, the QFC Rules will be gradually phased in, for purposes of the cost benefit considerations, we assume that the affected CSEs are in compliance with the QFC Rules.

(e) Other Public Interest Considerations

The Commission has not identified an impact on other public interest considerations as a result of this Proposal.

4. Request for Comments on Cost-Benefit Considerations

The Commission invites public comment on its cost-benefit considerations, including the section 15(a) factors described above. Commenters are also invited to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the proposed amendments with their comment letters. In particular, the Commission seeks specific comment on the following:

(a) Has the Commission accurately identified the benefits of this Proposal? Are there other benefits to the Commission, market participants, and/or the public that may result from the adoption of this Proposal that the Commission should consider? Please provide specific examples and explanations of any such benefits.

(b) Has the Commission accurately identified the costs of this Proposal? Are there additional costs to the Commission, market participants, and/or the public that may result from the adoption of this Proposal that the Commission should consider? Please provide specific examples and explanations of any such costs.

(c) Does this Proposal impact the section 15(a) factors in any way that is not described above? Please provide specific examples and explanations of any such impact.

D. Antitrust Laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b) of the CEA), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[44]

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission requests comment on whether this Proposal implicates any other specific public interest to be protected by the antitrust laws.

[44] 7 U.S.C. 19(b).

The Commission has considered this Proposal to determine whether it is anticompetitive and has preliminarily identified no anticompetitive effects. The Commission requests comment on whether this Proposal is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has preliminarily determined that this Proposal is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting this Proposal.

List of Subjects in 17 CFR Part 23

Capital and margin requirements, Major swap participants, Swap dealers, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 23 as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1,6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Stat. 1641 (2010).

■ 2. In § 23.151, revise paragraph (2) of the definition of *Eligible master netting agreement* to read as follows:

§ 23.151 Definitions applicable to margin requirements.

* * * * *

Eligible master netting agreement * * *

(2) The agreement provides the covered swap entity the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case:

(i) Any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than:

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*), Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 *et seq.*), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4617), or the Farm Credit Act of 1971, as amended (12 U.S.C. 2183 and 2279cc), or laws of foreign jurisdictions that are substantially similar to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or

(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and

(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of 12 CFR part 47; 12 CFR part 252, subpart I; or 12 CFR part 382, as applicable;

* * * * *

■ 3. In § 23.161, add paragraph (d) to read as follows:

§ 23.161 Compliance dates.

* * * * *

(d) For purposes of determining whether an uncleared swap was entered into prior to the applicable compliance date under this section, a covered swap entity may disregard amendments to the uncleared swap that were entered into solely to comply with the requirements of 12 CFR part 47; 12 CFR part 252, subpart I; or 12 CFR part 382, as applicable.

Issued in Washington, DC, on May 18, 2018, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz and Behnam voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2018–10995 Filed 5–22–18; 8:45 am]

BILLING CODE 6351–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240, 249, 275 and 279

[Release No. 34–83063; IA–4888; File No. S7–08–18]

RIN 3235–AL27

Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures in Retail Communications and Restrictions on the Use of Certain Names or Titles

Correction

In proposed rule document 2018–08583 beginning on page 21416 in the issue of Wednesday, May 9, 2018, make the following corrections:

1. On page 21553, in the second column, line one ''[Form ADV, Part 3:]1 Instructions to Form CRS'' should read ''APPENDIX B [Form ADV, Part 3:]1 Instructions to Form CRS''

2. On page 21570, in the first column, line one, under the table ''Your Relationship with Your Financial Professional: Feedback on the Relationship Summary'' should read ''APPENDIX F *Your Relationship with Your Financial Professional: Feedback on the Relationship Summary*''

[FR Doc. C1–2018–08583 Filed 5–22–18; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 8 and 141

[Docket No. RM18–14–000]

Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend regulations to eliminate the Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80 (Form 80). Form 80 solicits information on the use and development of recreation facilities at hydropower projects licensed by the Commission under the Federal Power Act. In addition, the Commission proposes to further revise its regulations related to recreational use and development at licensed projects in order to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts.

DATES: Comments are due July 23, 2018.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures section of this document.

FOR FURTHER INFORMATION CONTACT: Jon Cofrancesco (Technical Information), Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8951, *jon.cofrancesco@ferc.gov.* Tara DiJohn (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8671, *tara.dijohn@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

	Paragraph No.
I. Background	2
II. Proposed Rule	4
A. Removal of Section 8.11—Information Respecting Use and Development of Public Recreational Opportunities	4
1. Background	4
2. Proposed Elimination of Form 80	5
3. Implications for Existing Licenses	9
4. Removal of Section 141.14—Form No. 80, Licensed Hydropower Development Recreation Report	13
B. Amendments of 18 CFR 8.1, and 8.2	14
1. Section 8.1—Publication of License Conditions Relating to Recreation	15
2. Section 8.2—Posting of Project Lands as to Recreation Use and Availability of Information	17
III. Regulatory Requirements	20
A. Information Collection Statement	20
B. Environmental Analysis	36
C. Regulatory Flexibility Act	37
D. Comment Procedures	42
E. Document Availability	46

1. The Federal Energy Regulatory Commission (Commission) proposes to remove section 8.11 of its regulations, eliminating the requirement for licensees to file a Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80 (Form 80). Form 80 solicits information on the use and development of recreation facilities at hydropower projects licensed by the Commission under the Federal Power Act (FPA). In addition, the Commission proposes to revise sections 8.1 and 8.2 of its regulations to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts.

I. Background

2. Section 10(a)(1) of the FPA requires the Commission to ensure that any licensed project is best adapted to a comprehensive plan for improving and developing a waterway for a variety of beneficial public uses, including recreational use.[1] Although section 10(a) of the Federal Water Power Act of June 10, 1920[2] did not refer specifically to recreation, in 1935 when the Federal Water Power Act was re-enacted as Part I of the Federal Power Act,[3] the words 'including recreational purposes' were added to section 10(a) to make clear that recreation considerations were to be

[1] *See* 16 U.S.C. 803(a)(1) (2012).

[2] 41 Stat. 1063.

[3] 49 Stat. 838, 16 U.S.C. 791a–825r.

included in comprehensive development of the nation's water resources. Pursuant to this obligation, the Commission required licensees to allow public access to project lands and waters for recreational use and began to include standard conditions in licenses for the provision of such recreational facilities. In the 1960s, the Commission developed specific policies and practices to ensure that licensees provided reasonable recreational opportunities and notice of such opportunities to the public. In 1963, the Commission began requiring recreational use plans for the full public utilization of project waters and lands for recreation,[4] and in 1965 amended its regulations by adding Part 8, entitled ''Recreation Opportunities and Development at Licensed Projects,'' in order to require licensees to widely publicize to the general public recreational opportunities at individual projects.[5] Order 313, issued on December 27, 1965, amended the Commission's general policy regulations (18 CFR part 2) by adding section 2.7 to clarify that licensees whose projects include land and water resources with outdoor recreational potential have a responsibility for the development of those resources in accordance with area needs, to the extent that such development is not inconsistent with the primary purpose of the project.[6] In 1966, the Commission further amended Part 8 of its regulations to require licensees to file Form 80, a report that provides an inventory of the use and development of recreational facilities at each development contained within a licensed project.[7]

3. Over the years, the Commission has continued to revise its regulations to reflect the Commission's current public recreation policies and practices. Once again, in this Notice of Proposed Rulemaking the Commission proposes to modify certain recreation-related regulations in order to eliminate unnecessary reporting requirements, modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts. The regulations proposed for modification are discussed below.

II. Proposed Rule

A. Removal of Section 8.11—Information Respecting Use and Development of Public Recreational Opportunities

1. Background

4. Section 8.11 requires licensees to file Form 80, a report on the use and development of recreational facilities at each development contained within a licensed project, on April 1 of every sixth year, documenting data compiled during the previous calendar year.[8] For each project development,[9] the Form 80 requires licensees to report the number of visits (*i.e.,* recreation days),[10] the use capacity of each type of public recreation facility, and the total annual cost to develop, operate, and maintain the public recreation facilities. In order to complete the Form 80, licensees must collect data on recreation use, facilities, and capacity for a 12-month period. Licensees may request an exemption from the Form 80 requirement if they demonstrate that a project development has little or no existing or potential recreational use (*i.e.,* less than 100 recreation days per year).[11]

2. Proposed Elimination of Form 80

5. In 1965, when use of the Form 80 was first adopted, most licensed projects did not have individual recreation plans or specific recreation development requirements set out in the license. However, today many licensed projects with significant recreation opportunities have project-specific license conditions that require licensees to prepare and implement a recreation plan, conduct recreation monitoring, and/or file periodic updates to an approved recreation plan.[12] Such project-specific license requirements are tailored to the recreation opportunities provided by the individual project, allowing licensees and Commission staff to better evaluate and address public recreation needs over time. Consequently, the information contained in the Form 80 may be duplicative and of limited use to Commission staff when compared to the more detailed and descriptive recreation information submitted to the Commission in response to project-specific recreation requirements.

6. Licensees for projects with limited recreation opportunities are also required to file Form 80 reports every six years, unless exempted from this requirement. Although these projects may not have approved recreation plans or recreation-related monitoring requirements given the limited recreation opportunities at such projects, the periodic submission of Form 80 reports does not provide an effective means to determine whether these projects are meeting public recreation needs. Commission staff utilizes other tools to evaluate recreation development and use at the licensed projects with minimal recreation opportunities, such as periodic project inspections and investigation of non-compliance allegations (*e.g.,* any recreation-related inquiries or complaints submitted by resource agencies, recreation users, or local residents).

7. Moreover, Commission staff reports limited use of Form 80 data and cites concerns about the data's validity and lack of specificity. Commission staff generally views the Form 80 as a secondary source, using the reported data to confirm existing recreation data or to identify additional information to be requested from the licensee. Similarly, Commission staff experience indicates that resource agencies and outside entities often view Form 80 data as unreliable or insufficient to accurately document recreation use and facility capacity. Finally, advances in technology since the advent of the Form 80 (*e.g.,* websites, Google Earth, and the Commission's eLibrary system) allow

[4] Exhibit R, 18 CFR 4.41, Order 260–A, on April 18, 1963, 29 FPC 777.

[5] *Publicizing License Conditions Relating to Recreational Opportunities at Hydroelectric Projects,* Order No. 299, 33 F.P.C. 1131 (1965) (Order 299). Section 1 of Part 8 requires licensees to publicize license conditions related to recreation; section 2 requires licensees to post, at points of public access, signs providing recreation use information and requires licensees to make such information available for inspection; and section 3 requires licensees to permit use without discrimination. 18 CFR 8.1–8.3.

[6] *Recreational Development at Licensed Projects,* Order No. 313, 34 F.P.C. 1546, 1548 (1965) (Order 313).

[7] *Inventory of Recreation Facilities at Licensed Hydroelectric Projects,* Order No. 330, 36 F.P.C. 1030 (1966) (Order 330). Section 8.11 requires the filing of information on the use and development of public recreation opportunities. 18 CFR 8.11 (2017).

[8] *Modification of Hydropower Procedural Regulations, Including the Deletion of Certain Outdated or Non-Essential Regulations,* Order No. 540, FERC Stats. & Regs. ¶ 30,944 (1992). Order 330 originally required licensees to file a Form 80 every two years. 36 F.P.C. 1030, 1031. However, the Commission subsequently amended section 8.11 to revise the form and reduce the filing frequency. *See Revision of Licensed Hydropower Development Recreation Report: FERC Form No. 80,* Order No. 179, FERC Stats. & Regs. ¶ 30,295 (1981) (consolidating, simplifying, and reducing the size of the Form 80 by approximately 60 percent); *Deletion of a 1987 Filing Requirement for FERC Form No. 80,* Order No. 419, FERC Stats. & Regs. ¶ 60,640 (1985) (committing to re-evaluate the need for Form 80, and take further action if Form 80 is found unnecessary or in need of modification).

[9] Most licensed projects have only one project development. However, licensees of projects with more than one development must file a separate Form 80 report for each development.

[10] The Form 80 defines a recreation day as each visit by a person to a development for recreational purposes during any portion of a 24-hour period.

[11] 18 CFR 8.11(c) (2017).

[12] In addition, between fiscal years 2016 and 2030, over 500 projects will begin the relicensing process. During relicensing, the Commission's Division of Hydropower Licensing will evaluate the need for, and may require, project-specific recreation monitoring in new licenses on a case-by-case basis.

interested parties and the general public to more effectively obtain information about a project's recreational opportunities and any recreation-related license requirements.

8. For these reasons, the Commission proposes to remove section 8.11 from its regulations, eliminating the requirement for licensees to file the Form 80. This proposed change would result in reduced burden for licensees and Commission staff alike. If eliminated, licensees would no longer be required to collect and validate Form 80 data and Commission staff resources would not be allocated to performing Form 80-related responsibilities (*e.g.,* responding to licensee inquiries; performing database maintenance; addressing non-compliance matters related to overdue, incomplete, or inaccurate Form 80 filings; and acting on exemption requests).

3. Implications for Existing Licenses

9. With the removal of section 8.11, existing licensees would no longer be required to collect, validate, and submit recreational data through Form 80. Nonetheless, the Commission will expect licensees to monitor the recreational resources provided by their projects in order to fulfill any project-specific license requirements and the general obligations set forth in section 2.7 of the Commission's regulations. Among other things, section 2.7 requires licensees to develop suitable recreation facilities, provide adequate public access, and determine public recreation needs.[13] Implicit in these obligations is the expectation that a licensee will ensure that recreation development is operated and maintained in a manner that is safe for public use, responsive to public recreation needs, and consistent with project purposes throughout the license term.

10. The Commission expects that licensees will continue to monitor project recreation resources in a manner appropriate for the type, size, and quantity of public recreation opportunities provided by the project. Projects with moderate to significant public recreation opportunities typically require a greater level of monitoring and oversight than projects that have little to no recreation opportunities. Generally, licensees of projects with significant recreational resources must comply with one, or several, project-specific license articles requiring the licensee to: Develop certain recreation facilities, prepare and implement a recreation management plan, submit recreation reports, or conduct recreational use monitoring. A licensee's continued compliance with such project-specific conditions would satisfy this general monitoring obligation.[14]

11. Licensed projects with little to no recreation, including projects that were previously exempted from the Form 80 reporting requirement pursuant to section 8.11(c),[15] are not expected to implement any new or additional recreation monitoring efforts, but should continue to comply with any project-specific license conditions related to public recreation.

12. In the case where an existing license contains a condition, or a recreation plan contains a provision, that ties a future filing or other action to the Form 80 reporting schedule (*i.e.,* April 1, 2021, and every six years thereafter), licensees would still be required to timely file any recreation-related plan, report, update, or other specific information required by an existing license condition.[16] Despite the proposed elimination of the Form 80 reporting requirement, licensees would still be required to file the required recreation submittal by April 1, 2021, and every six years thereafter, unless otherwise specified in the license condition. A licensee may file an application to amend any license condition or recreation plan that ties the timing of future recreation filings to the Form 80 reporting schedule. Such amendment applications would be considered by the Commission on a case-by-case basis as a separate project-specific proceeding.

4. Removal of Section 141.14—Form No. 80, Licensed Hydropower Development Recreation Report

13. Added to the Commission's regulations alongside the Form 80 requirement in 1966,[17] section 141.14 approved licensee use of Form 80 in the manner prescribed in section 8.11 of our regulations.[18] Concurrently with the proposed removal of section 8.11, the Commission proposes to remove section 141.14 of its regulations.

B. Amendments of 18 CFR 8.1, and 8.2

14. In addition to the elimination of section 8.11, the Commission proposes to amend sections 8.1 and 8.2 of its regulations to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts.

1. Section 8.1—Publication of License Conditions Relating to Recreation

15. Section 8.1 directs licensees to publicize information about the availability of projects lands and waters for recreational purposes, and any recreation-related license conditions.[19] Section 8.1 requires licensees, at a minimum, to publish notice in a local newspaper once each week for four weeks of any recreation-related license conditions that the Commission may designate in an order issuing or amending a license.[20]

16. In addition to publishing notice in the local newspaper, the Commission proposes to require licensees with project websites to also post notice of recreation-related license conditions on its website. This requirement would only apply to a licensee that already has an existing project website, or decides to develop a project website in the future. This proposed change will ensure that the public is informed of recreational opportunities and recreation-related license conditions regardless of whether members of the public rely on a newspaper or the internet as their main source of news and information.

2. Section 8.2—Posting of Project Lands as to Recreation Use and Availability of Information

17. Section 8.2(a) requires the licensee to post at each public access point a visible sign that identifies: The project name, project owner, project number, directions to project areas available for public recreation, permissible times and activities, and other regulations regarding recreation use. Section 8.2(a) also requires licensees to post visible notice that project recreation facilities are open to all members of the public without discrimination. Section 8.2(b) directs the licensee to make available for

[13] 18 CFR 2.7(a)–(c) (2017).

[14] If necessary, the Commission may require additional recreation development or measures (*e.g.,* recreation use monitoring) during the license term. Licenses for major projects (*i.e.,* projects with an installed capacity that exceeds 1.5 megawatts) include a standard condition (Article 17) that reserves authority for the Commission to require a licensee to undertake additional recreation development or measures during the license term based on its own determination or in response to a request from Federal or State fish and wildlife agencies, after opportunity for notice and hearing.

[15] 18 CFR 8.11(c) (2017).

[16] For example, certain license articles may require a licensee to: (1) File a recreation use monitoring report in conjunction with the Form 80 report; (2) file documentation showing consultation on recreation use levels in conjunction with the Form 80 report; (3) conduct recreation use monitoring every six years in conjunction with the Form 80 report; (4) file a report that assesses whether a recreation plan update is needed every six years in conjunction with the Form 80; and/or (5) file a report describing whether public recreation needs are being met by the project every six years in conjunction with the Form 80.

[17] Order 330, 36 F.P.C. 1030.

[18] 18 CFR 141.14 (2017).

[19] 18 CFR 8.1 (2017).

[20] *See id.*

inspection at its local offices the Commission-approved recreation plan and the entire license order indexed for easy reference to the recreation-related license conditions designated for publication in accordance with section 8.1 of the Commission's regulations. As the Commission explained in Order 299, the rationale behind the types of public notice required by sections 8.1 and 8.2 is two-fold: (i) It puts prospective purchasers of land in the project vicinity on notice of the project's public access and recreation purposes; and (ii) it informs the general public of the location and terms of use of the project's recreation facilities.[21]

18. The proposed amendments to section 8.2 clarify project signage requirements and reflect modern public dissemination methods, such as website publication. The Commission proposes to revise section 8.2(a) to streamline the information licensees must include on recreation signage at each public access point. The proposed revisions would require signs to, at a minimum, identify: The project name and number, and a statement that the project is licensed by the Commission; the licensee name and contact information for obtaining additional project recreation information; and permissible times and activities. This proposed change reduces the information that must be included on recreation signage, providing licensees greater flexibility to design signs that effectively communicate the appropriate information needed by public to use and enjoy the recreational opportunities afforded by a particular project.

19. In addition, the Commission proposes to revise section 8.2(b) to require licensees with project websites to include on their websites copies of any approved recreation plan, recreation-related reports approved by the Commission, and the entire license instrument. As with the proposed revision to section 8.1, this requirement would only apply to a licensee that already has an existing project website, or decides to develop a project website in the future. This proposed changed would allow the public to obtain information about a project's recreation requirements by accessing the licensee's website, if applicable, or by visiting the licensee's local office in the project vicinity.

[21] Order 299, 33 F.P.C. 1131.

III. Regulatory Requirements

A. Information Collection Statement

20. The Paperwork Reduction Act[22] requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (including reporting, record keeping, and public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contemplated by proposed rules (including deletion, revision, or implementation of new requirements).[23] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

21. *Public Reporting Burden:* In this NOPR, the Commission proposes to delete the Form 80 and to update the recreation-related requirements of FERC–500 and FERC–505.

22. This proposed rule would eliminate an existing data collection, FERC–80 (OMB Control No. 1902–0106), as well as modify certain reporting and recordkeeping requirements included in FERC–500 (OMB Control No 1902–0058)[24] and FERC–505 (OMB Control No. 1902–0115).[25]

23. Under the most recent Form 80 reporting cycle,[26] 346 licensees prepared and filed 843 Form 80 reports.[27] Every three years, the Commission is required to request from OMB an extension of any currently approved information collection. Since the Form 80 is only filed every six years, the most recent annual burden and cost figures provided to OMB were based on an estimate of 400 respondents. To determine the total number of responses per year for OMB submittal purposes, we multiplied the number of respondents (400) by the annual number of responses per respondent (0.167) to arrive at 67 responses per year. The Commission estimated the current public reporting burden to be an average of three hours per form, with an associated cost of approximately $224 per form. Because the Form 80 is filed every six years, the estimated annualized cost to complete each form is $37.44, with a total annual cost for all licenses of approximately $14,974.50. This estimate includes the time required to review instructions, research existing data sources, and complete and review the collection of information.

24. This proposed rule, if adopted, would eliminate certain information collection and recordkeeping requirements. The proposed removal of the Form 80 report would eliminate the estimated annual information collection burden (201 hours) and cost ($14,974.50) associated with FERC–80 (OMB Control No. 1902–0106).[28]

25. In addition, the proposed revisions to sections 8.1 and 8.2, associated with the FERC–500 and FERC–505 information collections,[29] are intended to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts. With regard to modernized public notice practices, the proposed revisions would require licensees that have a project website to (1) publish notice on its website of license conditions related to recreation; and (2) maintain on its website copies of any approved recreation plan, recreation-related reports, and the license instrument. If a licensee does not have a project website, the website publication requirements would not apply. Accordingly, there is a slight increase in the reporting requirements and burden for FERC–500 and FERC–505.

26. The estimated changes to the burden and cost of the information collections affected by this NOPR follow.

[22] 44 U.S.C. 3501–3521 (2012).

[23] *See* 5 CFR 1320.11 (2017).

[24] FERC–500 includes the reporting and recordkeeping requirements for ''Application for License/Relicense for Projects with Capacity Greater Than 5MW.''

[25] FERC–505 includes the reporting and recordkeeping requirements for ''Small Hydropower Projects and Conduit Facilities including License/Relicense, Exemption, and Qualifying Conduit Facility Determination.''

[26] Licensees were required to file Form 80 reports by April 1, 2015, containing recreational use and development data compiled during the 2014 calendar year.

[27] For projects with more than one development, the licensee is required to submit a Form 80 report for each development.

[28] These figures are annual averages (for Paperwork Reduction Act purposes) of the burden and cost for the six-year cycle for the Form 80. The most recent OMB approval of the Form 80 was issued December 8, 2016.

[29] The Commission currently has 477 licenses for projects with an installed capacity more than 5 MW (reporting requirements covered by FERC–500) and 572 licenses for projects 5 MW or less (reporting requirements covered by FERC–505).

ANNUAL CHANGES PROPOSED BY THE NOPR IN DOCKET NO. RM18–14–000 [30]

	Number of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hours and cost per response (4)	Total annual burden hours and total annual cost (3) × (4) = 5	Cost per respondent ($) (5)/(1)
FERC–80 (reduction) [31]	400	[32] 0.167	67 (rounded)	3 hrs.; $224 (rounded); (reduction).	201 hrs.; $14,974.50 (rounded); (reduction).	$224 (reduction).
FERC–500	[33] 429	1	429	0.5 hr.; $26.77 (rounded)	215 hrs.; $11,484 (rounded)	$26.77 (rounded).
FERC–505	[34] 286	1	286	0.5 hr.; $26.77 (rounded)	143 hrs.; $7,656 (rounded)	$26.77 (rounded).

27. *Titles:* FERC Form 80 (Licensed Hydropower Development Recreation Report), FERC–500 (Application for License/Relicense for Water Projects with More than 5 Megawatt (MW) Capacity), and FERC–505 (Small Hydropower Projects and Conduit Facilities including License/Relicense, Exemption, and Qualifying Conduit Facility Determination)

28. *Action:* Deletion of information collection (FERC–80), and revisions to existing collections FERC–500 and FERC–505.

29. *OMB Control Nos.:* 1902–0106 (FERC–80), 1902–0058 (FERC–500), and 1902–0115 (FERC–505).

30. *Respondents:* Hydropower licensees, including municipalities, businesses, private citizens, and for-profit and not-for-profit institutions.

31. *Frequency of Information:* Ongoing.

32. *Necessity of Information:* The Commission proposes the changes in this NOPR in order to eliminate unnecessary reporting requirements, modernize public notice practices, and clarify recreational signage requirements.

33. *Internal Review:* The Commission has reviewed the proposed changes and has determined that such changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

34. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], by email to *DataClearance@ferc.gov,* by phone (202) 502–8663, or by fax (202) 273–0873.

35. Comments concerning the collections of information and the associated burden estimates may also be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Comments submitted to OMB should refer to FERC–80, FERC–500, and FERC–505 and OMB Control Nos. 1902–0106 (FERC–80), 1902–0058 (FERC–500), and 1902–0115 (FERC–505).

B. Environmental Analysis

36. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[35] Excluded from this requirement are rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of legislation or the regulations being amended.[36] This proposed rule would update the Commission's recreation-related regulations by clarifying public notice and signage requirements, and eliminating unnecessary reporting requirements. Because this rule is clarifying and procedural in nature, preparation of an Environmental Assessment or Environmental Impact Statement is not required.

C. Regulatory Flexibility Act

37. The Regulatory Flexibility Act of 1980 (RFA) [37] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and minimize any significant economic impact on a substantial number of small entities.[38] In lieu of preparing a regulatory flexibility analysis, an agency may certify that a proposed rule will not have a significant economic impact on a substantial number of small entities.[39]

38. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[40] The SBA size standard for electric utilities (effective January 22, 2014) is based on the number of employees, including affiliates.[41] Under SBA's current size standards, a hydroelectric power generator (NAICS code 221111) [42] is small if, including its affiliates, it employs 500 or fewer people.[43]

39. This proposed rule directly affects all hydropower licensees that are currently required to file the Form 80. The proposal, if adopted, would remove the Form 80 filing requirement, eliminating (for small and large entities) the cost of $224 associated with filing the Form 80 every six years.

[30] Hourly costs are based on Bureau of Labor Statistics figures for May 2017 wages in Sector 22—Utilities (*https://www.bls.gov/oes/current/naics2_22.htm*) and December 2017 benefits (*https://www.bls.gov/news.release/pdf/ecec.pdf*). For web developers (code 15–1134), the estimated average hourly cost (salary plus benefits) is $53.53.

[31] The figures are annualized figures contained in the current OMB inventory for FERC–80. While OMB requires existing information collections to be submitted for approval every three years, the Commission's hydropower licenses are only required to submit the Form 80 every six years. Therefore, the estimated figures for the entire six-year Form 80 cycle would be a total of 400 respondents, spending an estimated three hours per report, for a total of 1,200 hours.

[32] This figure indicates that a respondent files a Form 80 once every six years.

[33] We assume approximately 90 percent of the 477 for projects with an installed capacity of more than 5 MW licenses (*i.e.,* an estimated 429 licenses) have project websites.

[34] We assume approximately 50 percent of the 572 licenses for projects 5 MW or less (*i.e.,* an estimated 286 licenses) have project websites.

[35] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[36] 18 CFR 380.4(a)(2)(ii) (2017).

[37] 5 U.S.C. 601–612 (2012).

[38] 5 U.S.C. 603(c) (2012).

[39] 5 U.S.C. 605(b) (2012).

[40] 13 CFR 121.101 (2017).

[41] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77,343 (Dec. 23, 2013).

[42] The North American Industry Classification System (NAICS) is an industry classification system that Federal statistical agencies use to categorize businesses for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. United States Census Bureau, *North American Industry Classification System, https://www.census.gov/eos/www/naics/* (accessed April 11, 2018).

[43] 13 CFR 121.201, Sector 22, Utilities (2017).

40. In addition, the proposed revisions to sections 8.1 and 8.2 of the Commission's regulations would directly affect all hydropower licensees of projects that offer existing or potential recreational use opportunities. The proposed revisions are intended to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts. We expect the clarified signage requirements to benefit licensees by providing them more flexibility to design recreation-related signage strategies that best fit the needs of their individual projects. To modernize public notice practices, the proposed revisions would require licensees that have a project website, or develop one in the future, to publish and maintain certain recreation-related information on its website. If a licensee does not have a project website, the website publication requirements would not apply. Therefore, there is a slight increase in the information collection reporting requirements and burden for FERC–500 and FERC–505.[44] However, we do not anticipate the impact on affected entities, regardless of their status as a small or large entity, to be significant.

41. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Comment Procedures

42. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due July 23, 2018. Comments must refer to Docket No. RM18–14–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

43. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

44. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

45. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

E. Document Availability

46. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

47. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

48. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects

18 CFR Part 8

Electric power, Recreation and recreation areas, Reporting and recordkeeping requirements.

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

By direction of the Commission.
Issued: May 17, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Federal Energy Regulatory Commission proposes to amend parts 8 and 141, Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

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

Authority: 5 U.S.C. 551–557; 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

■ 2. Revise § 8.1 to read as follows:

§ 8.1 Publication of license conditions relating to recreation.

Following the issuance or amendment of a license, the licensee shall make reasonable efforts to keep the public informed of the availability of project lands and waters for recreational purposes, and of the license conditions of interest to persons who may be interested in the recreational aspects of the project or who may wish to acquire lands in its vicinity. Such efforts shall include, but are not limited to: The publication of notice in a local newspaper once each week for 4 weeks, and publication on any project website, of the project's license conditions which relate to public access to and the use of the project waters and lands for recreational purposes, recreational plans, installation of recreation and fish and wildlife facilities, reservoir water surface elevations, minimum water releases or rates of change of water releases, and such other conditions of general public interest as the Commission may designate in the order issuing or amending the license.

■ 3. Revise § 8.2 to read as follows:

§ 8.2 Posting of project lands as to recreational use and availability of information.

(a) Following the issuance or amendment of a license, the licensee shall post and maintain at all points of public access required by the license (or at such access points as are specifically designated for this purpose by the licensee) and at such other points as are subsequently prescribed by the Commission on its own motion or upon the recommendation of a public recreation agency operating in the project vicinity, a conspicuous sign that, at a minimum, identifies: The FERC project name and number, and a statement that the project is licensed by the Commission; the licensee name and contact information for obtaining additional project recreation information; and permissible times and activities. In addition, the licensee shall post at such locations conspicuous notice that the recreation facilities are open to all members of the public without discrimination.

(b) The licensee shall make available for inspection at its local offices in the

[44] In the Information Collection section, we estimated the average burden and cost per respondent to be approximately 30 minutes and $26.77 per year.

project vicinity, and on any project website, the approved recreation plan, any recreation-related reports approved by the Commission, and the entire license instrument, properly indexed for easy reference to the license conditions designated for publications in § 8.1.

§ 8.11 [Removed]

■ 4. Remove § 8.11.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

■ 5. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 15 U.S.C. 717–717z; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 141.14 [Removed]

■ 6. Remove 141.14.

[FR Doc. 2018–11002 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM18–8–000]

Geomagnetic Disturbance Reliability Standard

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to approve Reliability Standard TPL–007–2 (Transmission System Planned Performance for Geomagnetic Disturbance Events). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, submitted proposed Reliability Standard TPL–007–2 for Commission approval. Geomagnetic disturbance events (GMDs) occur when the sun ejects charged particles that interact with and cause changes in the earth's magnetic fields. Proposed Reliability Standard TPL–007–2 modifies currently-effective Reliability Standard TPL–007–1 by requiring applicable entities to: Conduct supplemental GMD vulnerability assessments and thermal impact assessments; obtain geomagnetically induced current and magnetometer data; and meet certain deadlines for the development and completion of tasks in corrective action plans. In addition, the Commission proposes to direct NERC to develop and submit modifications to the Reliability Standard to require applicable entities to develop and implement corrective action plans to mitigate supplemental GMD event vulnerabilities.

DATES: Comments are due July 23, 2018.

ADDRESSES: Comments, identified by docket number, may be filed electronically at *http://www.ferc.gov* in acceptable native applications and print-to-PDF, but not in scanned or picture format. For those unable to file electronically, comments may be filed by mail or hand-delivery to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

Justin Kelly (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (301) 665–1394, *Justin.Kelly@ferc.gov*.

Matthew Vlissides (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–8408, *Matthew.Vlissides@ferc.gov*.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission proposes to approve Reliability Standard TPL–007–2 (Transmission System Planned Performance for Geomagnetic Disturbance Events).[1] The Commission also proposes to approve the associated violation risk factors and violation severity levels, implementation plan, and effective date for proposed Reliability Standard TPL–007–2. The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted proposed Reliability Standard TPL–007–2 for approval in response to a Commission directive in Order No. 830.[2] Geomagnetic disturbance events (GMDs) occur when the sun ejects charged particles that interact with and cause changes in the earth's magnetic fields. This interaction can cause geomagnetically induced currents (GICs) to flow in an electric power system and, depending on various factors affecting the intensity of the current, can result in a risk of voltage instability or voltage collapse, as well as equipment loss or failure.

2. Proposed Reliability Standard TPL–007–2 modifies currently-effective Reliability Standard TPL–007–1 (Transmission System Planned Performance for Geomagnetic Disturbance Events) by requiring applicable entities to: (1) Conduct supplemental GMD vulnerability assessments and thermal impact assessments; (2) obtain GIC and magnetometer data; and (3) meet certain deadlines for the development and completion of tasks in corrective action plans.

3. The Commission proposes to approve proposed Reliability Standard TPL–007–2 as it largely addresses (with one exception discussed below) the directives in Order No. 830 to modify currently-effective Reliability Standard TPL–007–1: (1) To revise the benchmark GMD event definition, as it pertains to the required GMD Vulnerability Assessments and transformer thermal impact assessments, so that the definition is not based solely on spatially-averaged data; (2) to require the collection of necessary GIC monitoring and magnetometer data; and (3) to include a one-year deadline for the completion of corrective action plans and two- and four-year deadlines to complete mitigation actions involving non-hardware and hardware mitigation, respectively.

4. While proposed Reliability Standard TPL–007–2 addresses the first directive in Order No. 830 by requiring applicable entities to conduct supplemental GMD vulnerability and thermal impact assessments, which do not rely solely upon on spatially-averaged data, the proposed Reliability Standard does not require applicable entities to mitigate vulnerabilities identified pursuant to such a supplemental assessment.[3] NERC's proposal to modify the benchmark, but then allow entities the discretion to take corrective action based solely on the results of the spatially-averaged data while taking under advisement (''an evaluation of possible actions'') the results of the supplemental assessment, does not satisfy the clear intent of the Commission's directive. Moreover, Order No. 830 reiterated the directive in Order No. 779 that NERC develop a second stage GMD Reliability Standard requiring GMD vulnerability

[1] 16 U.S.C. 824o (2012).

[2] *Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events,* Order No. 830, 156 FERC ¶ 61,215 (2016), *reh'g denied,* 158 FERC ¶ 61,041 (2017).

[3] *See* Order No. 830, 156 FERC ¶ 61,215 at P 44 (directing NERC to ''develop revisions to the benchmark GMD event definition so that the reference peak geoelectric field amplitude component is not based solely on spatially-averaged data'').

assessments and that ''owners and operators [ ] develop and implement a plan to protect against instability, uncontrolled separation, or cascading failures of the Bulk-Power System.''[4] Accordingly, as discussed below, the Commission proposes to direct that NERC, pursuant to section 215(d)(5) of the FPA, develop and submit modifications to the Reliability Standard to require applicable entities to develop and implement corrective action plans to mitigate vulnerabilities revealed by conducting supplemental GMD vulnerability assessments.[5] The Commission proposes to direct NERC to submit the modified Reliability Standard for approval within 12 months from the effective date of Reliability Standard TPL–007–2.

5. In addition, while proposed Reliability Standard TPL–007–2 imposes deadlines for the preparation and completion of tasks in corrective action plans, Requirement R7.4 of the proposed Reliability Standard also permits applicable entities to exceed deadlines for completing corrective action plan tasks when ''situations beyond the control of the responsible entity [arise].'' As discussed below, the Commission seeks comment on two options that it is considering regarding proposed Requirement R7.4. Under the first option, the Commission would, pursuant to section 215(d)(5) of the FPA, direct NERC to modify the Reliability Standard to bring the proposed standard into alignment with the Commission's direction in Order No. 830, through a process whereby NERC considers extensions on a case-by-case basis informed by proposed Requirement R7.4.[6] Under the second option, the Commission would approve proposed Requirement R7.4. Under both options, the Commission would direct NERC to prepare and submit a report regarding how often and why applicable entities are exceeding corrective action plan deadlines following implementation of the proposed Reliability Standard. Under such a directive, NERC would submit the report within 12 months from the date on which applicable entities must comply with the last requirement of Reliability Standard TPL–007–2.[7]

I. Background

A. Section 215 and Mandatory Reliability Standards

6. Section 215 of the FPA requires the Commission to certify an ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced in the United States by the ERO, subject to Commission oversight, or by the Commission independently.[8]

B. GMD Primer

7. GMD events occur when the sun ejects charged particles that interact and cause changes in the earth's magnetic fields.[9] Once a solar particle is ejected, it can take between 17 to 96 hours (depending on its energy level) to reach earth.[10] A geoelectric field is the electric potential (measured in volts per kilometer (V/km)) on the earth's surface and is directly related to the rate of change of the magnetic fields.[11] The geoelectric field has an amplitude and direction and acts as a voltage source that can cause GICs to flow on long conductors, such as transmission lines.[12] The magnitude of the geoelectric field amplitude is impacted by local factors such as geomagnetic latitude and local earth conductivity.[13] Geomagnetic latitude is the proximity to earth's magnetic north and south poles, as opposed to earth's geographic poles.[14] Local earth conductivity is the ability of the earth's crust to conduct electricity at a certain location to depths of hundreds of kilometers down to the earth's mantle. Local earth conductivity impacts the magnitude (*i.e.,* severity) of the geoelectric fields that are formed during a GMD event by, all else being equal, a lower earth conductivity resulting in higher geoelectric fields.[15]

8. GICs can flow in an electric power system with varying intensity depending on the various factors discussed above. As explained in the Background section of the proposed Reliability Standard, ''[d]uring a GMD event, geomagnetically-induced currents (GIC) may cause transformer hot-spot heating or damage, loss of Reactive Power sources, increased Reactive Power demand, and Misoperation(s), the combination of which may result in voltage collapse and blackout.''

C. Currently-Effective Reliability Standard TPL–007–1 and Order No. 830

1. Currently-Effective Reliability Standard TPL–007–1

9. Reliability Standard TPL–007–1 consists of seven requirements and applies to planning coordinators, transmission planners, transmission owners and generation owners who own or whose planning coordinator area or transmission planning area includes a power transformer with a high side, wye-grounded winding connected at 200 kV or higher.

10. Requirement R1 requires planning coordinators and transmission planners (*i.e.,* ''responsible entities'') to determine the individual and joint responsibilities in the planning coordinator's planning area for maintaining models and performing studies needed to complete the GMD vulnerability assessment required in Requirement R4. Requirement R2 requires responsible entities to maintain system models and GIC system models needed to complete the GMD vulnerability assessment required in Requirement R4. Requirement R3 requires each responsible entity to have criteria for acceptable system steady state voltage performance for its system during the GMD conditions described in Attachment 1 of Reliability Standard TPL–007–1. Requirement R4 requires responsible entities to conduct a GMD vulnerability assessment every 60 months using the benchmark GMD event described in Attachment 1. Requirement R5 requires responsible entities to provide GIC flow information, based on the benchmark GMD event definition, to be used in the transformer thermal impact assessments required in Requirement R6, to each transmission owner and generator owner that owns an applicable transformer within the applicable planning area. Requirement R6 requires transmission owners and generator owners to conduct thermal impact assessments on solely and jointly owned applicable transformers where the maximum effective GIC value provided in Requirement R5 is 75 amps per phase (A/phase) or greater. Requirement R7 requires responsible entities to develop

[4] Order No. 830, 156 FERC ¶ 61,215 at P 7.

[5] 16 U.S.C. 824o(d)(5).

[6] Order No. 830, 156 FERC ¶ 61,215 at P 102.

[7] NERC's proposed implementation plan provides that, depending on the effective date of Reliability Standard TPL–007–2, applicable entities will be required to comply with the requirements of the proposed Reliability Standard on a staggered schedule. For example, if proposed Reliability Standard TPL–007–2 becomes effective before January 1, 2021, the last requirement applicable entities will be required to comply with is Requirement R7 54 months following the effective date of Reliability Standard TPL–007–2. If proposed Reliability Standard TPL–007–2 becomes effective after January 1, 2021, the last requirement applicable entities will be required to comply with is Requirement R8 72 months following the effective date of Reliability Standard TPL–007–2.

[8] 16 U.S.C. 824o(e).

[9] *See* NERC, 2012 Special Reliability Assessment Interim Report: Effects of Geomagnetic Disturbances on the Bulk Power System at i–ii (February 2012), *http://www.nerc.com/files/2012GMD.pdf.*

[10] *Id.* at ii.

[11] *Id.*

[12] *Id.*

[13] NERC, Benchmark Geomagnetic Disturbance Event Description, Docket No. 15–11–000, at 4 (filed June 28, 2016) (2016 NERC White Paper).

[14] *Id.*

[15] *Id.*

corrective action plans if the GMD vulnerability assessment concludes that the system does not meet the performance requirements in Table 1 of Reliability Standard TPL–007–1.

11. Calculation of the benchmark GMD event, against which applicable entities must assess their facilities, is fundamental to compliance with Reliability Standard TPL–007–1. Reliability Standard TPL–007–1, Requirement R3 states that ''[e]ach responsible entity, as determined in Requirement R1, shall have criteria for acceptable System steady state voltage performance for its System during the benchmark GMD event described in Attachment 1.''

Reliability Standard TPL–007–1, Attachment 1 states that the benchmark GMD event is composed of four elements: (1) A reference peak geoelectric field amplitude of 8 V/km derived from statistical analysis of historical magnetometer data; (2) a scaling factor to account for local geomagnetic latitude; (3) a scaling factor to account for local earth conductivity; and (4) a reference geomagnetic field time series or wave shape to facilitate time-domain analysis of GMD impact on equipment. The product of the first three elements is referred to as the regional peak geoelectric field amplitude. The benchmark GMD event defines the geoelectric field values used to compute GIC flows for a GMD vulnerability assessment, which is required in Reliability Standard TPL–007–1.[16]

12. For the purpose of determining a benchmark event that specifies what severity GMD events a responsible entity must assess for potential impacts on the Bulk-Power System, NERC determined that a 1-in-100 year GMD event would cause an 8 V/km reference peak geoelectric field amplitude at 60 degree north geomagnetic latitude using Québec's earth conductivity.[17] Scaling factors (*i.e.,* multiplying values) are applied to this reference peak geoelectric field amplitude to adjust the 8 V/km value for different geomagnetic latitudes (scaling factors between 0.1 and 1.0) and earth conductivities (scaling factors between 0.21 and 1.17). NERC identified a reference geomagnetic field time series from an Ottawa, Ontario magnetic observatory during a 1989 GMD storm affecting Québec. NERC used this to estimate a time series (*i.e.,* 10-second values over a period of days) of the geoelectric field that is representative of what is expected to occur at 60 degree geomagnetic latitude during a 1-in-100 year GMD event. Such a time series is used in some methods of calculating the vulnerability of a transformer to damage from heating caused by GIC.

13. NERC used field measurements taken from the International Monitor for Auroral Geomagnetic Effects (IMAGE) magnetometer chain, which consists of 39 magnetometer stations in Northern Europe, for the period 1993–2013 to calculate the reference peak geoelectric field amplitude. As described in the 2016 NERC White Paper, to arrive at a reference peak geoelectric field amplitude of 8 V/km, NERC ''spatially averaged'' four different station groups each spanning a square area of approximately 500 km (roughly 310 miles) in width.[18]

2. Order No. 830

14. On January 21, 2015, NERC submitted for Commission approval Reliability Standard TPL–007–1 in response to a directive in Order No. 779, which directed NERC to develop one or more Reliability Standards to address the effects of GMD events on the electric grid.[19] In Order No. 830, the Commission approved Reliability Standard TPL–007–1, concluding that Reliability Standard TPL–007–1 addressed the Commission's directive by requiring applicable Bulk-Power System owners and operators to conduct, on a recurring five-year cycle, initial and ongoing vulnerability assessments regarding the potential impact of a benchmark GMD event on the Bulk-Power System as a whole and on Bulk-Power System components. In addition, the Commission determined that Reliability Standard TPL–007–1 requires applicable entities to develop and implement corrective action plans to mitigate vulnerabilities identified through those recurring vulnerability assessments and that potential mitigation strategies identified in Reliability Standard TPL–007–1 include, but are not limited to, the installation, modification or removal of transmission and generation facilities and associated equipment.

15. In Order No. 830, the Commission also determined that Reliability Standard TPL–007–1 should be modified. Specifically, Order No. 830 directed NERC to develop and submit modifications to Reliability Standard TPL–007–1 concerning: (1) The calculation of the reference peak geoelectric field amplitude component of the benchmark GMD event definition; (2) the collection and public availability of necessary GIC monitoring and magnetometer data; and (3) deadlines for completing corrective action plans and the mitigation measures called for in corrective action plans. Order No. 830 directed NERC to develop and submit these revisions for Commission approval within 18 months of the effective date of Order No. 830.

16. With respect to the calculation of the reference peak geoelectric field amplitude component of the benchmark GMD event definition, Order No. 830 expressed concern with relying solely on spatial averaging in Reliability Standard TPL–007–1 because ''the use of spatial averaging in this context is new, and thus there is a dearth of information or research regarding its application or appropriate scale.''[20] While Order No. 830 directed that the peak geoelectric field amplitude should not be based solely on spatially-averaged data, the Commission indicated that this ''directive should not be construed to prohibit the use of spatial averaging in some capacity, particularly if more research results in a better understanding of how spatial averaging can be used to reflect actual GMD events.''[21]

D. NERC Petition and Proposed Reliability Standard TPL–007–2

17. NERC states that proposed Reliability Standard TPL–007–2 enhances currently-effective Reliability Standard TPL–007–1 by addressing reliability risks posed by GMDs more effectively and implementing the directives in Order No. 830.[22] NERC asserts that proposed Reliability Standard TPL–007–2 reflects the latest

[16] *See* Reliability Standard TPL–007–1, Requirements R4 and R5. Reliability Standard TPL–007–1 does not set a threshold amount of GIC flow that would constitute a vulnerable transformer. However, if a transformer is calculated to experience a maximum effective GIC flow during a benchmark GMD event of a least 75 A/phase, a thermal impact assessment of that transformer is required. *See* Reliability Standard TPL–007–1, Requirement R6.

[17] NERC used Québec as the location for the reference peak 1-in-100 year GMD event because of its proximity to 60 degree geomagnetic latitude and its well understood earth model. By creating scaling factors, each entity can scale this reference peak geoelectric field and geoelectric field time series values to match its own expected field conditions.

[18] ''Spatial Averaging'' refers to the averaging of magnetometer readings over a geographic area. The standard drafting team averaged several (but not all) geomagnetic field readings taken by magnetometers located within square geographical areas of 500 km per side.

[19] *Reliability Standards for Geomagnetic Disturbances,* Order No. 779, 143 FERC ¶ 61,147, *reh'g denied,* 144 FERC ¶ 61,113 (2013).

[20] Order No. 830, 156 FERC ¶ 61,215 at P 45.

[21] *Id.* P 46.

[22] Proposed Reliability Standard TPL–007–2 is not attached to this Notice of Proposed Rulemaking (NOPR). Proposed Reliability Standard TPL–007–2 is available on the Commission's eLibrary document retrieval system in Docket No. RM18–8–000 and on the NERC website, *www.nerc.com.*

in GMD understanding and provides a technically sound and flexible approach to addressing the concerns discussed in Order No. 830. NERC contends that the proposed modifications enhance reliability by expanding GMD vulnerability assessments to include severe, localized impacts and by implementing deadlines and processes to maintain accountability in the development, completion, and revision of corrective action plans developed to address identified vulnerabilities. Further, NERC states that the proposed modifications improve the availability of GMD monitoring data that may be used to inform GMD vulnerability assessments.

18. Proposed Reliability Standard TPL–007–2 modifies currently-effective Reliability Standard TPL–007–1 by requiring applicable entities to: (1) Conduct supplemental GMD vulnerability and transformer thermal impact assessments in addition to the existing benchmark GMD vulnerability and transformer thermal impact assessments required in Reliability Standard TPL–007–1; (2) collect data from GIC monitors and magnetometers as necessary to enable model validation and situational awareness; and (3) develop necessary corrective action plans within one year from the completion of the benchmark GMD vulnerability assessment, include a two-year deadline for the implementation of non-hardware mitigation, and include a four-year deadline to complete hardware mitigation.[23]

19. In particular, proposed Reliability Standard TPL–007–2 modifies Requirements R1 (identification of responsibilities) and R2 (system and GIC system models) to extend the existing requirements pertaining to benchmark GMD assessments to the proposed supplemental GMD assessments. Proposed Reliability Standard TPL–007–2 adds the newly mandated supplemental GMD vulnerability and transformer thermal impact assessments in new Requirements R8 (supplemental GMD vulnerability assessment), R9 (GIC flow information needed for supplemental GMD thermal impact assessments) and R10 (supplemental GMD thermal impact assessments). The supplemental GMD event definition contains a higher, non-spatially-averaged reference peak geoelectric field amplitude component than the benchmark GMD event definition (12 V/km versus 8 V/km). These three new requirements largely mirror existing Requirements R4, R5, and R6 that currently apply, and would continue to apply, only to benchmark GMD vulnerability and transformer thermal impact assessments.[24]

20. In addition, proposed Reliability Standard TPL–007–2 includes two other new requirements, Requirements R11 and R12, that require applicable entities to gather GIC monitored data (Requirement R11) and magnetometer data (Requirement R12).

21. Proposed Reliability Standard TPL–007–2 modifies existing Requirement R7 (corrective action plans) to create a one-year deadline for the development of corrective action plans and two and four-year deadlines to complete actions involving non-hardware and hardware mitigation, respectively, for vulnerabilities identified in the benchmark GMD assessment. The proposed modifications to Requirement R7 include a provision allowing for extension of deadlines if ''situations beyond the control of the responsible entity determined in Requirement R1 prevent implementation of the [corrective action plan] within the timetable for implementation.''

II. Discussion

22. Pursuant to section 215(d) of the FPA, the Commission proposes to approve Reliability Standard TPL–007–2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Proposed Reliability Standard TPL–007–2 addresses the directives in Order No. 830 to modify currently-effective Reliability Standard TPL–007–1: (1) To revise the benchmark GMD event definition, as it pertains to the required GMD Vulnerability Assessments and transformer thermal impact assessments, so that the definition is not based solely on spatially-averaged data; (2) to require the collection of necessary GIC monitoring and magnetometer data; and (3) to include a one-year deadline for the completion of corrective action plans and two and four-year deadlines to complete mitigation actions involving non-hardware and hardware mitigation, respectively.[25]

23. Proposed Reliability Standard TPL–007–2 complies with the directives in Order No. 830 by requiring, in addition to the benchmark GMD event vulnerability and thermal impact assessments, supplemental GMD vulnerability and thermal impact assessments. The supplemental GMD event definition in proposed Reliability Standard TPL–007–2 contains a non-spatially-averaged reference peak geoelectric field amplitude component of 12 V/km, in contrast to the 8 V/km figure in the spatially-averaged benchmark GMD event definition. As NERC explains in its petition, the supplemental GMD event will be used to ''represent conditions associated with localized enhancement of the geomagnetic field during a severe GMD event for use in assessing GMD impacts.''[26] Proposed Reliability Standard TPL–007–2 therefore addresses the Commission's directive to modify currently-effective Reliability Standard TPL–007–1 so that the benchmark GMD event does not rely solely on spatially-averaged data to calculate the reference peak geoelectric field amplitude.

24. While proposed Reliability Standard TPL–007–2 addresses the first directive in Order No. 830 by requiring applicable entities to conduct supplemental GMD vulnerability and thermal impact assessments, the proposed Reliability Standard does not require applicable entities to mitigate such vulnerabilities. Instead, proposed Reliability Standard TPL–007–2, Requirement R8.3 only requires applicable entities to make ''an evaluation of possible actions designed to reduce the likelihood or mitigate the consequences and adverse impacts of the event(s)'' if a supplemental GMD event is assessed to result in Cascading.[27] As discussed below, NERC's proposal differs significantly from Order No. 830 because the intent of the directive was not only to identify vulnerabilities arising from localized

[23] Unless otherwise indicated, the requirements of proposed Reliability Standard TPL–007–2 are substantively the same as the requirements in currently-effective Reliability Standard TPL–007–1. Proposed Reliability Standard TPL–007–2 contains conforming and other non-substantive modifications that are not addressed in this NOPR.

[24] An exception is the qualifying threshold for transformers required to undergo thermal impact assessments: For the supplemental GMD assessment the qualifying threshold for transformers is a maximum effective GIC value of 85 A/phase while the threshold for benchmark GMD event assessments is 75 A/phase.

[25] NERC states that it will address the directive in Order No. 830 on public dissemination of GIC monitoring and magnetometer data through a forthcoming NERC data request to applicable entities pursuant to Section 1600 of the NERC Rules of Procedure rather than through a Reliability Standard requirement. On February 7, 2018, NERC released a draft data request for a 45-day comment period. After reviewing the comments, NERC indicates that it intends to seek authorization from the NERC Board of Trustees to issue the data request in August 2018. NERC Petition at 27.

[26] NERC Petition at 12.

[27] The NERC Glossary defines Cascading as ''uncontrolled successive loss of System Elements triggered by an incident at any location . . . [c]ascading results in widespread electric service interruption that cannot be restrained from sequentially spreading beyond an area predetermined by studies.'' Glossary of Terms Used in NERC Reliability Standards (January 31, 2018).

GMD events but also to mitigate such vulnerabilities. Moreover, Order No. 830 reiterated the directive in Order No. 779 that NERC develop a second stage GMD Reliability Standard requiring GMD vulnerability assessments and that ''owners and operators [ ] develop and implement a plan to protect against instability, uncontrolled separation, or cascading failures of the Bulk-Power System.'' [28] Accordingly, the Commission proposes to direct NERC, pursuant to section 215(d)(5) of the FPA, to develop and submit modifications to the Reliability Standard to require applicable entities to develop and implement corrective action plans to mitigate supplemental GMD event vulnerabilities. The Commission proposes to direct NERC to submit the modified Reliability Standard for approval within 12 months from the effective date of Reliability Standard TPL–007–2.

25. In addition, as discussed below, the Commission seeks comment on the need for Requirement R7.4 of proposed Reliability Standard TPL–007–2, which allows applicable entities to extend corrective action plan implementation deadlines, as compared to a process whereby NERC considers extensions on a case-by-case basis, as suggested in Order No. 830.[29] After reviewing the comments, the Commission may approve the requirement but direct NERC to prepare and submit a report concerning the use of corrective action plan deadline extensions as allowed under proposed Reliability Standard TPL–007–2, Requirement R7.4. Under such a directive, NERC would submit the report within 12 months from the date on which applicable entities must comply with the last requirement of Reliability Standard TPL–007–2. Alternatively, pursuant to section 215(d)(5) of the FPA, the Commission may direct NERC to modify the Reliability Standard to remove Requirement R7.4.

A. Corrective Action Plan for Supplemental GMD Event Vulnerabilities

NERC Petition

26. In requiring applicable entities to assess their vulnerabilities to a supplemental GMD event, NERC states that geomagnetic fields during severe GMD events can be spatially non-uniform with higher and lower strengths across a geographic region. NERC explains that the supplemental GMD event was derived using individual station measurements rather than spatially-averaged measurements, and thus includes localized enhancement of field strength above the average value found in the benchmark GMD event. NERC contends that the supplemental GMD event thus addresses the directive in Order No. 830 to revise Reliability Standard TPL–007–1 to account for the effects of localized peaks that could potentially affect reliable operations.

27. NERC maintains that the benchmark GMD event and supplemental GMD event are similar in structure but the supplemental GMD event contains differences to account for localized impacts. NERC explains that, like the benchmark GMD event, the supplemental GMD event defines the geomagnetic and geoelectric field values used to compute GIC flows for use in a GMD vulnerability assessment and is composed of four elements: (1) Reference peak geoelectric field amplitude of 12 V/km derived from statistical analysis of historical magnetometer data; (2) scaling factors to account for local geomagnetic latitude; (3) scaling factors to account for local earth conductivity; and (4) a locally-enhanced reference geomagnetic field time series or waveform to facilitate time-domain analysis of GMD impact on equipment.

28. NERC states that the higher reference peak geoelectric field amplitude (12 V/km compared to 8 V/km used in the benchmark GMD event) and local enhancements to the geomagnetic field time series or waveform are distinguishing characteristics of the supplemental GMD event and are intended to represent conditions associated with localized enhancement of the geomagnetic field during a severe GMD event for use in assessing GMD impacts.[30]

29. In developing the supplemental GMD event, NERC indicates that the standard drafting team ensured that the peak geoelectric field does not rely on spatial averaging of geomagnetic field data. NERC states that, like the value in the existing benchmark GMD event, the supplemental GMD event peak geoelectric field is a 1-in-100 year extreme value determined using statistical analysis of historical geomagnetic field data. NERC explains that the fundamental difference in the supplemental GMD event amplitude is that it is based on geomagnetic field observations taken at individual observation stations (*i.e.,* localized measurements), instead of the spatially-averaged geoelectric fields used in the benchmark GMD event. NERC states that the result of the extreme value analysis shows that the supplemental GMD event peak of 12 V/km is above the upper limit of the 95 percent confidence interval for a 100-year interval, while the same confidence interval with spatially-averaged data (*i.e.,* the benchmark GMD event) is 8 V/km.

30. NERC indicates that the corrective action plans mandated in Requirement R7 continue to apply only if an entity has identified system performance issues through the benchmark GMD vulnerability assessments. NERC explains that mitigation for assessed supplemental GMD vulnerabilities are addressed in proposed Requirement R8.3, which states that if a responsible entity concludes that there would be ''Cascading'' caused by the supplemental GMD event, the entity shall conduct an analysis of possible actions to reduce the likelihood or mitigate the impacts of the event.[31]

31. NERC states that the standard drafting team determined that requiring corrective action plans in response to assessed supplemental GMD event vulnerabilities would not be appropriate at this time because the supplemental GMD event definition uses a small number of observed localized enhanced geoelectric field events that provide only general insight into the geographic size of localized events during severe solar storms.[32] NERC also contends that currently available modeling tools do not provide entities with capabilities to model localized enhancements within a severe GMD event realistically.[33] As a result, NERC claims that applicable entities may need to employ conservative approaches when performing the supplemental GMD vulnerability assessment, such as applying the localized peak geoelectric field over an entire planning area.[34] NERC states that, for these reasons, ''requiring mandatory mitigation may not provide effective reliability benefit

[28] Order No. 830, 156 FERC ¶ 61,215 at P 7.

[29] *Id.* P 102.

[30] NERC states that the supplemental GMD event waveform is more severe than the benchmark GMD event waveform because it includes a five-minute duration enhanced peak up to 12 V/km for the reference earth model and 60 degree geomagnetic latitude. NERC Petition at 13. NERC explains that this synthetic enhancement represents the observed localized, rapid magnetic field variation periods associated with ionospheric sources during some severe GMD events. *Id.* NERC observes that such GMD conditions could result in increased transformer heating for short durations during a severe GMD event due to increased GIC flows. *Id.*

[31] NERC Petition at 23.

[32] *Id.*

[33] *Id.*

[34] *Id.* at 24.

or use resources optimally.'' [35] NERC contends that the approach used in proposed Reliability Standard TPL–007–2 for the supplemental GMD event provides entities with flexibility to consider and select mitigation actions based on their circumstances and is similar to the approach used in Reliability Standard TPL–001–4, Requirement R3.5 for extreme events.[36]

Commission Proposal

32. NERC's proposal not to require corrective action plans for supplemental GMD event vulnerabilities differs significantly from Order No. 830 because the intent and clear meaning of the directive was not only to identify vulnerabilities arising from localized GMD events but also to mitigate such vulnerabilities. Order No. 830 reiterated the directive in Order No. 779 that NERC develop a second stage GMD Reliability Standard requiring GMD vulnerability assessments and that ''owners and operators [ ] develop and implement a plan to protect against instability, uncontrolled separation, or cascading failures of the Bulk-Power System.'' [37] By contrast, proposed Reliability Standard TPL–007–2 allows supplemental GMD event vulnerabilities to potentially go unmitigated even, for example, if an applicable entity assesses that the supplemental GMD event causes Cascading.[38]

33. Moreover, in Order No. 830, the Commission directed NERC to ''develop revisions to the benchmark GMD event definition so that the reference peak geoelectric field amplitude component is not based solely on spatially-averaged data.'' [39] NERC's proposal to modify the benchmark, but then allow applicable entities the discretion to take corrective action based solely on the results of the spatially-averaged benchmark analysis while taking under advisement (''an evaluation of possible actions'') the results of the supplemental assessment, does not satisfy the clear intent of the Commission's directive.

34. Further, we are not persuaded by NERC's reasoning that: (1) Existing technical limitations, specifically the limited number of observations used to define the supplemental GMD event and the availability of modeling tools to assist entities in assessing vulnerabilities, make requiring mitigation premature at this time; and (2) requiring only an evaluation of possible actions for supplemental GMD events that result in Cascading is similar to the treatment of extreme events in Reliability Standard TPL–001–4 (Transmission System Planning Performance Requirements).

35. We believe, based on the information before us, that it is reasonable to require applicable entities to mitigate supplemental GMD event vulnerabilities because, as NERC contends, the supplemental GMD event ''provides a technically justified method of assessing vulnerabilities to the localized peak effects of severe GMD events.'' [40] While the supplemental GMD event possesses characteristics that differentiate it from the benchmark GMD event (*i.e.,* geographic area, peak amplitude, duration, and geoelectric field waveform), both events were developed by the standard drafting team using a common framework. The standard drafting team determined the peak amplitude of the supplemental GMD event using generalized extreme value statistical analysis methods, as it did for the benchmark GMD event, and found a consistent result of 12 V/km with a 95 percent confidence interval. Generalized extreme value analysis is well-supported in the technical literature and, in approving the benchmark GMD event, was previously accepted in Order No. 830. The basic waveform used for the supplemental GMD event is the same waveform used in the benchmark GMD event.[41] Similar to the methodology for determining peak amplitude, the benchmark GMD event waveform was previously considered appropriate in Order No. 830. While the supplemental GMD event waveform includes a ''five-minute duration enhanced peak up to 12 V/km,'' NERC does not suggest that the duration of the enhanced peak is unrepresentative of the behavior of localized enhancements.

36. NERC contends that the low number of real-world observations on which the supplemental GMD event is based calls into question the accuracy of its geographic size.[42] However, any uncertainty regarding the size of the geographic footprint of the supplemental GMD event could be addressed by applicable entities through sensitivity analysis and other methods within the planning studies. The proposed Reliability Standard does not prescribe how applicable entities must perform such studies; so applicable entities may incorporate this uncertainty into their studies. Indeed, Attachment 1 (Calculating Geoelectric Fields for the Benchmark and Supplemental GMD Events) of proposed Reliability Standard TPL–007–2 states that ''Planners have flexibility to determine how to apply the localized peak geoelectric field over the planning area in performing GIC calculations.'' [43] Attachment 1 provides that an applicable entity may apply the supplemental GMD event definition over the entire planning area; apply some combination of the benchmark GMD event and supplemental GMD event over portions of a planning area; or use ''[o]ther methods to adjust the benchmark GMD event analysis to account for the localized geoelectric field enhancement of the supplemental GMD event.'' [44] The flexibility afforded to applicable entities by proposed Reliability Standard TPL–007–2 to determine the geographic size of the supplemental GMD event, in our view, addresses NERC's concern.

37. The Supplemental Geomagnetic Disturbance Event Description appended to NERC's petition further supports the supplemental GMD event definition by stating that ''[b]ased on the above analysis and the previous work associated with the benchmark GMD event, it is reasonable to incorporate a second (or supplemental) assessment into TPL-007-2 to account for the potential impact of a local enhancement in both the network analysis and the transformer thermal assessment(s).'' [45] The Supplemental GMD Event White Paper also states that ''[g]iven the current state of knowledge regarding the spatial extent of a local geomagnetic field enhancements, upper geographic boundaries, such as the values used in the approaches above, are reasonable but are not definitive.'' [46]

38. With respect to NERC's contention regarding the unavailability of modeling tools, we are not persuaded. We understand that there are commercially available tools that could allow for

[35] *Id.*

[36] *Id.*

[37] Order No. 830, 156 FERC ¶ 61,215 at P 7.

[38] Proposed Reliability Standard TPL–007–2, Requirement R8.3 (''If the analysis concludes there is Cascading caused by the supplemental GMD event described in Attachment 1, an evaluation of possible actions designed to reduce the likelihood or mitigate the consequences and adverse impacts of the event(s) shall be conducted.'').

[39] *Id.* at 44.

[40] NERC Petition at 13.

[41] *Id.* (''Both the benchmark and supplemental GMD event waveforms are based on 10-second sampling interval magnetic field data from the Ottawa observatory recorded during the March 13–14, 1989 GMD event.'').

[42] *Id.* at 23 (''[the] small number of observed localized enhanced geoelectric field events . . . provide only general insight into the geographic size of localized events during severe solar storms'').

[43] Proposed Reliability Standard TPL–007–2, Attachment 1, Applying the Localized Peak Geoelectric Field in the Supplemental GMD Event.

[44] *Id.*

[45] NERC Petition, Exhibit I (Supplemental Geomagnetic Disturbance Event Description) at 12 (Supplemental GMD Event White Paper).

[46] *Id.* at 13.

modeling of supplemental GMD events.[47] In addition to these modeling tools, other methods could be used within the framework of the Reliability Standard to study planning areas (*e.g.,* superposition or sensitivity studies) in conjunction with other power system modeling tools. However, we will consider any comments that substantiate NERC's position.

39. In addition, the Commission recognized in Order No. 830 that an improved understanding of GMDs is necessary and directed NERC to conduct certain GMD-related research. The GMD research directed in Order No. 830 is meant to address technical limitations regarding GMD mitigation, among other areas. In the preliminary GMD research work plan submitted by NERC on May 30, 2017, NERC stated that the Commission in Order No. 830 ''noted its concern that a spatially-averaged benchmark may not adequately account for localized peak geoelectric fields that could potentially affect reliable operations.'' [48] In response, NERC indicated that it will conduct ''(i) research [Task 1 of the GMD research work plan] to improve understanding of the characteristics and spatial scales of localized geoelectric field enhancements caused by severe GMD events; and (ii) research to determine the impacts of spatial averaging assumptions on [Bulk-Power System] reliability.'' [49] NERC estimated that Task 1, which includes the development of better models, will require approximately 24–36 months to complete from start of work. Such GMD research on localized events should inform the standard development process and aid applicable entities when implementing a modified Reliability Standard.[50]

40. We are also not persuaded by NERC's reliance on Reliability Standard TPL–001–4 to justify only requiring an evaluation of possible actions for supplemental GMD events that result in Cascading in light of the directive in Order No. 830. In Order No. 830, the Commission directed NERC to modify the proposed Reliability Standard to assess and address the risks posed by enhanced localized GMD events to the Bulk-Power System. In contrast, in approving Reliability Standard TPL–001–4, the Commission did not direct NERC to further modify the Reliability Standard to address the risks posed by extreme events. Accordingly, the treatment of extreme events under Reliability Standard TPL–001–4 does not support the notion here that applicable entities should, as NERC suggests, have the ''the flexibility to . . . *consider* mitigation.'' [51] However, as with the mitigation of benchmark GMD event vulnerabilities, we agree with NERC that any required mitigation of supplemental GMD event vulnerabilities should be flexible in terms of how applicable entities choose to mitigate such vulnerabilities. NERC's petition already stresses that proposed Reliability Standard TPL–007–2 affords flexibility as to how applicable entities apply the supplemental GMD event to their planning areas.[52]

41. Accordingly, the Commission proposes to direct NERC, pursuant to section 215(d)(5) of the FPA, to develop and submit modifications to the Reliability Standard to require applicable entities to develop and implement corrective action plans to mitigate supplemental GMD event vulnerabilities. The Commission proposes to direct NERC to submit the modified Reliability Standard for approval within 12 months from the effective date of Reliability Standard TPL–007–2. The Commission seeks comments from NERC and other interested entities on this proposal.

B. Corrective Action Plan Deadline Extensions NERC Petition

42. NERC states that proposed Reliability Standard TPL–007–2, Requirement R7.2 requires responsible entities to develop a corrective action plan within one year of the benchmark GMD vulnerability assessment, if the entity concludes that its System does not meet the performance requirements for the steady state planning benchmark GMD event. NERC indicates that under Requirement R7.3, the corrective action plan shall include a timeline that specifies the completion of non-hardware and hardware mitigation within two and four years of development of the corrective action plan, respectively.

43. NERC maintains that proposed Reliability Standard TPL–007–2 also recognizes that there may be circumstances outside of a responsible entity's control that could prevent the completion of a mitigation activity within the specified timetable. NERC cites as examples delays due to regulatory or legal processes, such as permitting; delays from stakeholder processes required by tariffs; delays resulting from equipment lead times; or delays resulting from the inability to acquire necessary right-of-way. NERC explains that in such circumstances, a responsible entity may maintain compliance by revising its corrective action plan in accordance with Requirement R7.4. NERC states that under Requirement R7.4, the responsible entity shall revise its corrective action plan if events beyond its control prevent implementation within the original timetable. NERC explains that in the revised corrective action plan, the responsible entity must provide justification for its revised timetable by documenting: (1) The circumstances causing the delay; (2) description of the original corrective action plan and any changes; and (3) revisions to selected actions, including the use of any operating procedures if applicable, along with an updated timetable for completion. NERC states that the revised corrective action plan shall be updated at least annually and the responsible entity must then provide its revised corrective action plan to recipients of the original corrective action plan (*i.e.,* reliability coordinator, adjacent planning coordinator(s), adjacent transmission planner(s), functional entities referenced in the corrective action plan, and any functional entity that submits a written request and has a reliability related need for the information).

44. NERC contends that this proposal is consistent with other Commission-approved Reliability Standards. NERC cites Reliability Standard FAC–003–4, Requirement R7 and asserts that it provides that an entity may modify its annual vegetation work plan in light of circumstances beyond the entity's control, such as a natural disaster or other circumstance. NERC also cites Reliability Standard PRC–004–5(i), Requirement R5 and contends that under that Reliability Standard a responsible entity that owns a protection system component that caused a misoperation shall either

[47] *See, e.g.,* Siemens Power Technologies International, GIC Module to Analyze Geomagnetic Disturbances on the Grid, Features Summary, *http://w3.usa.siemens.com/smartgrid/us/en/transmission-grid/products/grid-analysis-tools/transmission-system-planning/Documents/PTI_FF_EN_SWPE_GIC_1412.pdf;* PowerWorld, Simulator, Geomagnetically Induced Current (GIC), *https://www.powerworld.com/products/simulator/add-ons-2/simulator-gic.*

[48] NERC, Geomagnetic Disturbance Research Work Plan of the North American Electric Reliability Corporation, Docket No. RM15–11–002, at 8 (filed May 30, 2017).

[49] *Id.*

[50] On April 19, 2018, NERC submitted a revised GMD Work Plan that is currently pending before the Commission. NERC, Revised Geomagnetic Disturbance Research Work Plan of the North American Electric Reliability Corporation, Docket No. 15–11–003 (filed April 19, 2018). The revised GMD Work Plan provides additional detail to the previous version. NERC now estimates that Task 1 deliverables will be completed in 2019. *Id.,* Attachment 1 (Order No. 830 GMD Research Work Plan (April 2018)) at 7.

[51] NERC Petition at 24 (emphasis added).

[52] NERC Petition, Exhibit I at 13 (''Proposed TPL-007-2 provides flexibility for planners to determine how to apply the supplemental GMD event to the planning area.'').

develop a corrective action plan or explain in a declaration why corrective actions are beyond the entity's control or would not improve reliability.

Commission Proposal

45. Proposed Reliability Standard TPL–007–2 satisfies Order No. 830 by incorporating the deadlines set out by the Commission for the development and implementation of corrective action plans. However, Requirement R7.4 of the proposed Reliability Standard differs from Order No. 830 by allowing applicable entities to ''revise'' or ''update'' corrective action plans to extend deadlines. This provision contrasts with the Commission's guidance in Order No. 830 that ''NERC should consider extensions of time on a case-by-case basis.'' [53]

46. NERC contends that the proposed Reliability Standard ''would implement the Commission directed deadlines for Corrective Action Plans and mitigation, along with a process to maintain accountability and communication with affected entities when circumstances beyond a responsible entity's control affect the entity's ability to complete implementation within the original deadlines.'' [54] Given the complexities and potential novelty of steps applicable entities may take to mitigate the risks of GMDs, we agree with NERC that there should be a mechanism for allowing extensions of corrective action plan implementation deadlines. However, we would like to avoid unnecessary delay in implementing protection against GMD threats. Moreover, we are not persuaded that the proposal is supported by the precedent cited by NERC because the Reliability Standards NERC cites are distinguishable.

47. NERC maintains that provisions similar to Requirement R7.4 are found in two Reliability Standards. NERC states that Reliability Standard FAC–003–4, Requirement R7, allows a registered entity to modify its annual vegetation work plan in light of circumstances beyond the entity's control. While Reliability Standard FAC–003–4, Requirement R7 permits modifications to annual vegetation work plans, the modifications cannot result in a registered entity's failure to avoid the damage contemplated by Requirement R7—vegetation encroachment: ''Modifications to the work plan in response to changing conditions or to findings from vegetation inspections may be made (provided they do not allow encroachment of vegetation into the [minimum vegetation clearance distance]) and must be documented.'' In contrast, proposed Requirement R7.4 could enable applicable entities to delay mitigation that would avoid the damage of known GMD vulnerabilities. Accordingly, the extensions of time permitted by Reliability Standard FAC–003–4, because they may not result in the damage contemplated by the Reliability Standard, are not comparable, as NERC asserts, to failure to mitigate an existing GMD vulnerability in a timely manner.

48. NERC also compares the corrective action plan provision in proposed Reliability Standard TPL–007–2 with Reliability Standard PRC–004–5(i), Requirement R5, which allows ''a responsible entity that owns a Protection System component that caused a Misoperation . . . [to] either develop a Corrective Action Plan or explain in a declaration why corrective actions are beyond the entity's control or would not improve reliability.'' We are not persuaded that NERC's proposal to allow self-declared extensions of time in Requirement R7.4 is supported by the quoted language in Reliability Standard PRC–004–5(i), Requirement R5 because Requirement R5 does not allow for extensions of time. Rather, Requirement R5 permits the registered entity to declare that it cannot carry out corrective actions (*e.g.,* because the misoperation occurred on facilities it does not own or control) or because the corrective action would not improve Bulk-Power System reliability. Moreover, the Guidelines and Technical Basis document accompanying Reliability Standard PRC–004–5(i) concludes by stating that a ''declaration that no further corrective actions will be taken is expected to be used sparingly.''

49. Given these concerns, the Commission is considering two options in response to Requirement R7.4 of the proposed Reliability Standard. The Commission seeks comment from NERC and other interested entities on each of these proposals.

50. Under the first option, the Commission would, pursuant to section 215(d)(5) of the FPA, direct NERC to modify the proposed Reliability Standard to comport with Order No. 830, by requiring that NERC and the Regional Entities, as appropriate, consider requests for extension of time on a case-by-case basis.[55] Under this option, responsible entities seeking an extension would submit the information required by proposed Requirement R7.4 to NERC and the Regional Entities for their consideration of the request. The Commission would also direct NERC to prepare and submit a report addressing the disposition of any such requests, as well as information regarding how often and why applicable entities are exceeding corrective action plan deadlines following implementation of the proposed Reliability Standard.[56] Under such a directive, NERC would submit the report within 12 months from the date on which applicable entities must comply with the last requirement of Reliability Standard TPL–007–2. Following receipt of the report, the Commission would determine whether further action is necessary.

51. Under the second option, the Commission would approve proposed Requirement R7.4 but also direct NERC to prepare and submit a report regarding how often and why applicable entities are exceeding corrective action plan deadlines following implementation of the proposed Reliability Standard. Under such a directive, NERC would submit the report within 12 months from the date on which applicable entities must comply with the last requirement of Reliability Standard TPL–007–2. Following receipt of the report, the Commission would determine whether further action is necessary.

III. Information Collection Statement

52. The collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[57] OMB's regulations require review and approval of certain information collection requirements imposed by agency rules.[58] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the information collection requirements of a rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

53. We solicit comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the

[53] Order No. 830, 156 FERC ¶ 61,215 at P 102.

[54] NERC Petition at 22.

[55] Order No. 830, 156 FERC ¶ 61,215 at P 102.

[56] Under proposed Requirement R7.4, when an applicable entity extends a corrective action plan deadline, it must revise the corrective action plan to explain the ''[c]ircumstances causing the delay for fully or partially implementing the selected actions.'' NERC could use this information to populate the proposed report.

[57] 44 U.S.C. 3507(d) (2012).

[58] 5 CFR part 1320 (2017).

information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

54. The Commission proposes to approve proposed Reliability Standard TPL–007–2, which would replace currently-effective Reliability Standard TPL–007–1. When compared to Reliability Standard TPL–007–1, proposed Reliability Standard TPL–007–2 maintains the current information collection requirements, modifies existing Requirement R7 and adds new requirements in Requirements R8 through R12.

55. Proposed Reliability Standard TPL–007–2 includes new corrective action plan development and implementation deadlines in Requirement R7, new supplemental GMD vulnerability and transformer thermal impact assessments in Requirements R8 through R10, and requirements for applicable entities to gather magnetometer and GIC monitored data in Requirements R11 and R12. Deadlines in Requirement R7 for the development and implementation of corrective action plans would only change the timeline of such documentation and are not expected to revise the burden to applicable entities. The burden estimates for new Requirements R8 through R10 are expected to be similar to the burden estimates for Requirements R4 through R6 in currently-effective Reliability Standard TPL–007–1 due to the closely-mirrored requirements.[59] The Commission expects that only 25 percent or fewer of transmission owners and generator owners would have to complete a supplemental transformer thermal impact assessment per Requirement R10. Requirements R11 and R12 require applicable entities to have a process to collect GIC and magnetometer data from meters in planning coordinator planning areas.

Public Reporting Burden: The burden and cost estimates below are based on the changes to the reporting and recordkeeping burden imposed by proposed Reliability Standard TPL–007–2. Our estimates for the number of respondents are based on the NERC Compliance Registry as of 3/9/2018, which indicates there are 183 entities registered as transmission planner (TP), 65 planning coordinators (PC), 330 transmission owners (TO), 944 generator owners (GO) within the United States. However, due to significant overlap, the total number of unique affected entities (*i.e.,* entities registered as a transmission planner, planning coordinator, transmission owner or generator owner, or some combination of these functional entities) is 1,130 entities. This includes 188 entities that are registered as a transmission planner or planning coordinator (applicability for Requirements R7 to R9 and R11 to R12), and 1,119 entities registered as a transmission or generation owner (applicability for Requirement R10). Given the assumption above, there is an expectation that at most only 25 percent of the 1,119 entities (or 280 entities) will have to complete compliance activities for Requirement R10. The estimated burden and cost are as follow.[60]

FERC–725N, CHANGES PROPOSED IN NOPR IN DOCKET NO. RM18–8 [61] [62]

Requirement (R)	Number and type of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hours and cost per response (4)	Total annual burden hours and total annual cost (rounded) (3) × (4) = (5)	Cost per respondent ($) (5) ÷ (1)
R1 through R6	No change	No change	No change	No change	No change	No change.
R7	188 (PC and TP)	1/5 (once for every five year study).	37.6	Rep. 5 hrs., $334.5; RK 5 hrs., $160.2.	Rep. 188 hrs.,$12,577; RK 188 hrs., $6,023.	Rep. 1 hr., $66.9; RK 1 hr., $32.04.
R8	188 (PC and TP)	1/5 (once for every five year study).	37.6	Rep., 27 hrs., $1,806.30;RK, 21 hrs., $672.84.	Rep. 1,015 hrs., $67,917; RK 790 hrs., $25,299.	Rep., 5.4 hrs., $361.26; RK 4.2 hrs., $134.57.
R9	188 (PC and TP)	1/5 (once for every five year study).	37.6	Rep. 9 hrs., $602.10. RK 7 hrs., $224.28.	Rep. 338 hrs.; $22,639 RK 263 hrs., $8,432.	Rep. 1.8 hrs., $120.42; RK 1.4 hrs., $44.85.
R10	280 (25% of 1,119) (GO and TO)	1/5 (once for every five year study).	56	Rep. 22 hrs., $1,471.8;. RK 18 hrs. $576.72.	Rep. 1,232 hrs., $82,421; RK 1,008 hrs., $32,296.	Rep. ;4.4 hrs., $294.36; RK 3.6 hrs., $115.34.
R11	188 (PC and TP)	1 (on-going reporting).	188	Rep. 10 hrs., $669;. RK. 10 hrs., $320.40.	Rep. 1,880 hrs., $125,772; RK 1,880 hrs., $60,235.	Rep. 10 hrs., $669; RK 10 hrs., $320.40.
R12	188 (PC and TP)	1 (on-going reporting).	188	Rep. 10 hrs., $669. RK. hrs 320.4	Rep. 1,880 hrs. $125,772; RK 1,880 hrs., $60,235.	Rep. 10 hrs., $669; RK 10 hrs., $320.40.

[59] NERC Petition at 15–17.

[60] Hourly costs are based on the Bureau of Labor Statistics (BLS) figures for May 2017 (Sector 22, Utilities) for wages (*https://www.bls.gov/oes/current/naics2_22.htm*) and benefits for December 2017 (*https://www.bls.gov/news.release/ecec.nr0.htm*). We estimate that an Electrical Engineer (NAICS code 17–2071) would perform the functions associated with reporting requirements, at an average hourly cost (for wages and benefits) of $66.90. The functions associated with recordkeeping requirements, we estimate, would be performed by a File Clerk (NAICS code 43–4071) at an average hourly cost of $32.04 for wages and benefits.

The estimated burden and cost are in addition to the burden and cost that are associated with the existing requirements in Reliability Standard TPL–007–1 (and in the current OMB-approved inventory), which would continue under proposed Reliability Standard TPL–007–2.

FERC–725N, CHANGES PROPOSED IN NOPR IN DOCKET NO. RM18–8 [61] [62]—Continued

Requirement (R)	Number and type of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hours and cost per response (4)	Total annual burden hours and total annual cost (rounded) (3) × (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Total Additional Hrs. and Cost (rounded), due to NOPR in RM18–8.	.....	.....	.....	.....	Rep., 6,533 ..... hrs., $437,057; RK 6,009. hrs., $192,528	

Title: FERC–725N, Mandatory Reliability Standards: TPL Reliability Standards.

Action: Proposed revisions to an existing collection of information.

OMB Control No: 1902–0264.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: [63] Every five years (for Requirement R7–R10), annually (for Requirement R11 and R12).

Necessity of the Information: Proposed Reliability Standard TPL–007–2, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, these requirements address the threat posed by GMD events to the Bulk-Power System and conform to the Commission's directives to modify Reliability Standard TPL–007–1 as directed in Order No. 830.

Internal review: The Commission has reviewed proposed Reliability Standard TPL–007–2, and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

56. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

Comments concerning the proposed collection of information and the associated burden estimate should be sent to the Commission in this docket and may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Comments submitted to OMB should refer to FERC–725N and OMB Control No. 1902–0264.

IV. Environmental Analysis

57. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[64] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[65] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

58. The Regulatory Flexibility Act of 1980 (RFA) [66] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The definition of small business is provided by the Small Business Administration (SBA) at 13 CFR 121.201. The threshold for a small utility (using SBA's sub-sector 221) is based on the number of employees for a concern and its affiliates. As discussed above, proposed Reliability Standard TPL–007–2 would apply to a total of 1,130 unique planning coordinators, transmission planners, transmission owners, and generation owners.[67] A small utility (and its affiliates) is defined as having no more than the following number of employees:

- For planning coordinators, transmission planners, and transmission owners (NAICS code 221121, Electric Bulk Power Transmission and Control), a maximum of 500 employees
- for generator owners, a maximum of 750 employees.[68]

59. The total cost to all entities (large and small) is $629,585 annually (or an average of $1,345.27 for each of the estimated 468 entities affected annually). For the estimated 280 generator owners and transmission owners affected annually, the average cost would be $409.70 per year. For the estimated 188 planning coordinators and transmission planners, the estimated average annual cost would be $2,738.84. The estimated annual cost to each affected entity varies from $409.70 to $2,738.84 and is not considered significant.

60. Accordingly, the Commission certifies that the proposals contained in this NOPR will not have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this certification.

[61] Rep. = reporting requirements; RK = recordkeeping requirements.

[62] For each Reliability Standard, the Measure shows the acceptable evidence (Reporting Requirement) for the associated Requirement (R numbers), and the Compliance section details the related Recordkeeping Requirement.

[63] The frequency of Requirements R1 through R6 in proposed Reliability Standard TPL–007–2 is unchanged from the existing requirements in Reliability Standard TPL–007–1.

[64] Regulations Implementing the National Environmental Policy Act of 1969, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[65] 18 CFR 380.4(a)(2)(ii) (2017).

[66] 5 U.S.C. 601–12 (2012).

[67] In the NERC Registry, there are approximately 65 PCs, 188 TPs, 944 GOs, and 330 TOs (in the United States), which will be affected by this NOPR. Because some entities serve in more than one role, these figures involve some double counting.

[68] The maximum number of employees for a generator owner (and its affiliates) to be ''small'' varies from 250 to 750 employees, depending on the type of generation (*e.g.,* hydroelectric, nuclear, fossil fuel, wind). For this analysis, we use the most conservative threshold of 750 employees.

VI. Comment Procedures

61. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due July 23, 2018. Comments must refer to Docket No. RM18–8–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

62. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

63. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

64. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

65. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington DC 20426.

66. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number, excluding the last three digits of this document in the docket number field.

67. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at 202–502–8371, TTY 202–502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: May 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11001 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2017–0011]

James River, Skiffes Creek and Warwick River Surrounding Joint Base Langley-Eustis (JBLE-Eustis), Virginia; Restricted Areas and Danger Zones

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to amend an existing permanent danger zone in the waters of the James River, Skiffes Creek and Warwick River in Newport News, Virginia. JBLE-Eustis contains a military port berthing numerous Army vessels and conducts exercises to include small craft testing and live fire training activities. The proposed amendment is necessary to protect the public from hazards associated with training and mission operations, and to protect government assets, missions, and the base population in general. The proposed amendment increases the restricted areas and creates danger zones surrounding the existing installation and firing ranges.

DATES: Written comments must be submitted on or before June 22, 2018.

ADDRESSES: You may submit comments, identified by docket number COE–2017–0011, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE–2017–0011, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R (David B. Olson), 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2017–0011. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *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, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922, or Nicole Woodward, Corps of Engineers, Norfolk District, Regulatory Branch, at 757–201–7122.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of

Engineers is proposing amendments to regulations in 33 CFR part 334 for the establishment of new restricted areas and danger zones, in the waters of the James River, Skiffes Creek and Warwick River in Newport News, Virginia. In a memorandum dated April 28, 2017, the Department of the Air Force requested that the Corps modify 33 CFR 334.280 to establish permanent restricted areas and danger zones. The proposed permanent restricted areas and danger zones are necessary to protect the public from hazards associated with training and mission operations, and to fulfill the current security needs of the Department of the Air Force to protect government assets, missions, and the base population in general at the facility. The proposed modification expands the restricted areas to surround JBLE-Eustis and establishes danger zones adjacent to the JBLE-Eustis firing ranges.

Procedural Requirements

a. Review Under Executive Order 12866

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

The Corps determined this proposed rule is not a significant regulatory action. This regulatory action determination is based on the proposed rules governing the restricted areas, which allow any vessel that needs to transit the restricted areas to do so if the operator of the vessel obtains permission from Commander, JBLE-Eustis, and/or other persons or agencies as he/she may designate.

b. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Corps certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels that intend to transit the restricted areas or danger zones may be small entities, for the reasons stated in paragraph (a) above this rule would not have a significant economic impact on any vessel owner or operator. In addition, the restricted areas and danger zones are necessary to protect vessels and personnel assigned to JBLE-Eustis by implementing a waterside security program. They are also necessary to protect the public. Small entities can also utilize navigable waters outside of the restricted areas and danger zones. Small entities that need to transit the restricted areas and danger zones may do so as long as vessel operators obtain permission from the Commander, Joint Base Langley-Eustis, and/or other persons or agencies as he/she may designate. The restricted areas are necessary for security of JBLE-Eustis. The danger zones area necessary for protect the public from hazards associated with training and mission operations. Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the proposed restricted areas and danger zones would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of this restricted area and danger zone regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act

Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Revise § 334.280 to read as follows:

§ 334.280 James River, Skiffes Creek and Warwick River surrounding Joint Base Langley-Eustis, Virginia; restricted areas and danger zones.

(a) *The areas.* The datum for the coordinates for the restricted areas and danger zones described in this section is NAD–83.

(1) *Army Training and Small Craft Testing Area (restricted area).* Beginning on the shore at latitude 37°09′54″ N, longitude 76°36′25″ W, thence westerly to latitude 37°09′53″ N, longitude 76°36′59″ W, thence westerly to latitude 37°09′50″ N, longitude 76°37′45″ W, thence southerly to latitude 37°09′00″ N, longitude 76°38′05″ W, thence southerly to latitude 37°08′22″ N, longitude 76°37′55″ W, thence due east to the shore at latitude 37°08′22″ N, longitude 76°37′20″ W, thence northerly following the shoreline to the point of beginning.

(2) *3rd Port Facility (restricted area).* An area surrounding the 3rd Port facility, Fort Eustis, beginning at a point on the shore line at latitude 37°09′54″ N, longitude 76°36′25″ W, thence northerly, following the shoreline to latitude 37°10′29″ N, longitude 76°36′06″ W, thence westerly to latitude 37°10′33″ N, longitude 76°36′20″ W, thence following the shoreline to latitude 37°10′13″ N, longitude 76°36′42″ W, thence southerly to latitude 37°09′53″ N, longitude 76°36′59″ W, thence to the point of beginning.

(3) *Warwick River and any tributaries, creeks, estuaries, tidal areas, to include Butlers Gut and Jail Creek (restricted area).* All navigable waters of the United States as defined in 33 CFR part 329 within the boundaries of Fort Eustis, westerly of a line connecting the following coordinates: Commencing

from the shoreline at latitude 37°09′47″ N, longitude 76°33′52″ W, thence following the meanders of the installation boundary along the westerly mean low waterline of Warwick River, thence to a point on the installation boundary at latitude 37°04′35″ N, longitude 76°33′19″ W.

(4) *James River and any tributaries, creeks, estuaries, tidal areas, to include Nells Creek, Locust Neck Creek, Dudleys Creek, Morrisons Creek, Morleys Gut, Blows Creek, and Milstead Creek (restricted area).* Navigable waters of the United States as defined at 33 CFR part 329 within the boundaries of Fort Eustis, north/north-easterly of a line connecting the following coordinates: Commencing from the shoreline at latitude 37°04′35″ N, longitude 76°33′19″ W, thence following the meanders of the installation boundary along the northeasterly mean low waterline of the James River, thence to a point on the installation boundary at latitude 37°10′03″ N, longitude 76°36′26″ W at a point at the mouth of Skiffes Creek.

(5) *Skiffes Creek and any tributaries, creeks, estuaries, tidal areas, to include Baileys Creek (restricted area).* All navigable waters of the United States as defined at 33 CFR part 329 within the boundaries of Fort Eustis, easterly of a line connecting the following coordinates: Commencing from a point on the installation boundary at latitude 37°10′03″ N, longitude 76°36′26″ W, thence following the meanders of the installation boundary along the northeasterly mean low waterline of Skiffes Creek, thence to a point at latitude 37°10′30″ N, longitude 76°36′07″ W within Skiffes Creek at the centerline of an unnamed tributary off Skiffes Creek; thence, with the centerline meanders of the said centerline of the unnamed tributary following the meanders of the installation boundary; thence to a point on the installation boundary at latitude 37°10′36″ N, longitude 76°36′02″ W.

(6) *Danger Zone Warwick River.* Navigable waters of the United States as defined at 33 CFR part 329 that encroach upon the boundaries of the Danger Zone of Fort Eustis, westerly of a line connecting the following coordinates: Commencing from the installation boundary at latitude 37°06′44″ N, longitude 76°34′04″ W, thence to a point at latitude 37°06′44″ N, longitude 76°34′02″ W, thence to a point at latitude 37°06′35″ N, longitude 76°33′56″ W, thence to a point at latitude 37°06′28″ N, longitude 76°33′57″ W, thence to a point at latitude 37°06′15″ N, longitude 76°33′30″ W, thence to a point at latitude 37°05′43″ N, longitude 76°33′13″ W, thence to a point at latitude 37°05′33″ N, longitude 76°33′17″ W, thence to a point at latitude 37°05′13″ N, longitude 76°32′53″ W, thence to a point at latitude 37°05′03″ N, longitude 76°33′09″ W, thence following the meanders of the installation boundary along the southwesterly mean low waterline of Warwick River, thence to a point at latitude 37°04′52″ N, longitude 76°33′13″ W, thence to a point at latitude 37°04′49″ N, longitude 76°33′11″ W, thence to a point at latitude 37°04′43″ N, longitude 76°33′28″ W, thence following the meanders of the installation boundary along the southwesterly mean low waterline of Warwick River, thence to a point at latitude 37°04′35″ N, longitude 76°33′19″ W.

(7) *Danger Zone James River.* Navigable waters of the United States as defined at 33 CFR part 329 that encroach upon the boundaries of the Danger Zone of Fort Eustis, north/north-easterly of a line connecting the following coordinates: Commencing from the installation boundary at latitude 37°04′35″ N, longitude 76°33′19″ W, thence following the meanders of the installation boundary along the easterly mean low waterline of James River to a point at latitude 37°04′39″ N, longitude 76°33′39″ W, thence to a point at latitude 37°04′33″ N, longitude 76°34′15″ W, thence to a point at latitude 37°04′52″ N, longitude 76°34′19″ W, thence to a point at latitude 37°04′52″ N, longitude 76°34′18″ W, thence to a point at latitude 37°04′60″ N, longitude 76°34′20″ W, thence to a point at latitude 37°05′19″ N, longitude 76°34′51″ W, thence to a point at latitude 37°05′53″ N, longitude 76°35′00″ W, thence to a point at latitude 37°06′03″ N, longitude 76°35′08″ W, thence following the meanders of the installation boundary along the easterly mean low waterline of James River, thence to a point at latitude 37°06′40″ N, longitude 76°35′52″ W, thence to a point at latitude 37°06′35″ N, longitude 76°36′19″ W, thence to a point on the installation boundary at latitude 37°06′50″ N, longitude 76°36′21″ W.

(b) *The regulations.* (1) For the restricted areas defined in paragraphs (a)(1) and (a)(2) of this section:

(i) All vessels will contact the 3rd Port Harbor Master on marine channel 12 or 68 prior to entering or transiting these restricted areas.

(ii) The passage of fishing vessels to or from authorized traps, or the transit of commercial vessels, will be coordinated with the 3rd Port Harbor Master on marine channel 12 or 68.

(iii) The harvesting and cultivation of oyster beds or the setting of fish traps within these restricted areas will be allowed provided the commercial fisherman coordinate access to these areas with the 3rd Port Harbor Master on marine channel 12 or 68.

(iv) The Commander, Joint Base Langley-Eustis will, to the extent possible, give public notice from time to time through local news media and the Coast Guard's Local Notice to Mariners of the schedule of intended Department of Defense use of the restricted areas.

(2) For the restricted areas defined in paragraphs (a)(3), (a)(4), and (a)(5) of this section:

(i) Entry into these areas is for official government purposes only, or as authorized by the Commander, Joint Base Langley-Eustis.

(ii) Entry will be coordinated and conducted in accordance with the policies and procedures established by the Commander, Joint Base Langley-Eustis.

(3) For the danger zones defined in paragraphs (a)(6) and (a)(7) of this section:

(i) Persons, vessels or other craft shall not enter or remain in the danger zone when firing is or will soon be in progress unless authorized to do so by the enforcing agency.

(ii) Advance notice of the schedule of small arms firing will be provided via the Joint Base Langley-Eustis web page.

(iii) All projectiles will be fired to land within the impact area on the Fort Eustis peninsula. Neither the Department of the Army nor the Department of the Air Force will be responsible for damages by such projectiles to nets, traps, buoys, pots, fishpounds, stakes, or other equipment which may be located within these danger zones.

(c) *Enforcement.* The regulations of this section shall be enforced by the Commander, Joint Base Langley-Eustis, Virginia, and such agencies as the commander may designate.

Dated: May 11, 2018.

Thomas P. Smith,

Chief, Operations and Regulatory Division, Directorate of Civil Works.

[FR Doc. 2018–11016 Filed 5–22–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2017–0006]

Little Creek Harbor, Fisherman's Cove, Joint Expeditionary Base Little Creek-Fort Story, Little Creek, Virginia, Restricted Areas

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to establish a restricted area in the waters of Fisherman's Cove and Little Creek Harbor at Joint Expeditionary Base Little Creek-Fort Story, Little Creek (JEBLCFS) in Virginia Beach, Virginia. JEBLCFS is the homeport of numerous ships, small boats and special operational units. The proposed amendment is necessary to better protect vessels and personnel assigned to JEBLCFS by implementing a waterside security program. The proposed amendment establishes the restricted area waters within the boundaries of the existing installation and in the entry channel into the harbor.

DATES: Written comments must be submitted on or before June 22, 2018.

ADDRESSES: You may submit comments, identified by docket number COE–2017–0006, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE–2017–0006, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R (David B. Olson), 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2017–0006. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *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, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922, or Ms. Nicole Woodward, Corps of Engineers, Norfolk District, Regulatory Branch, at 757–201–7122.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is proposing amendments to regulations in 33 CFR part 334 for the establishment of a new restricted area in the waters of Fisherman's Cove and Little Creek at JEBLCFS in Virginia Beach, Virginia. In a memorandum dated May 1, 2017, the Department of the Navy requested that the Corps modify 33 CFR 334 to establish a permanent restricted area. The proposed amendment is necessary to better protect vessels and personnel assigned to JEBLCFS by implementing a waterside security program. The request is in response to the possible risks associated with the potential for unfettered access to the harbor and the close proximity of a civilian marina to naval assets. The proposed amendment establishes the restricted area in waters within the boundary of the existing installation and in the entry channel into the harbor.

Procedural Requirements

a. Regulatory Planning and Review

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

The Corps has made a determination this proposed rule is not a significant regulatory action. This regulatory action determination is based on the proposed rules governing the restricted areas, which allow any vessel that needs to transit the restricted areas to do so if the operator of the vessel obtains permission from Little Creek Port Control or the Commanding Officer, JEBLCFS, and/or other persons or agencies as he/she may designate.

b. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Corps certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels that intend to transit the restricted areas may be small entities, for the reasons stated in paragraph (a) above this rule would not have a significant economic impact on any vessel owner or operator. In addition, the restricted areas are necessary to protect vessels and personnel assigned to JEBLCFS by implementing a waterside security program. Small

entities can also utilize navigable waters outside of the restricted areas. Small entities that need to transit the restricted areas may do so as long as the operator of the vessel obtains permission from Little Creek Port Control or the Commanding Officer, JEBLCFS, and/or other persons or agencies as he/she may designate. The restricted areas are necessary for security of JEBLCFS. Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the proposed restricted areas would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of this restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act

Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.305 to read as follows:

§ 334.305 Little Creek Harbor, Fisherman's Cove, Joint Expeditionary Base Little Creek-Fort Story, Little Creek, Virginia, Restricted Areas.

(a) *The Little Creek Restricted Areas.* The Little Creek Restricted Areas consist of two distinct areas: The Outer Harbor Restricted Area and the Inner Harbor Restricted Area. The datum for the coordinates in this section is NAD–83.

(1) *The Outer Harbor Restricted Area.* The waters within an area beginning at a point on shore at latitude 36°55′57.7″ N, longitude 76°10′35″ W, thence southwesterly to a point on the opposite shore at latitude 36°55′53″ N, longitude 76°10′44″ W, thence southerly to latitude 36°55′21.2″ N, longitude 76°10′42″ W, thence southwesterly to latitude 36°55′17.8″ N, longitude 76°10′49″ W, thence northwesterly to a point in Fisherman's Cove at latitude 36°55′22″ N, longitude 76°11′15.5″ W, thence southerly to latitude 36°55′19.2″ N, longitude 76°11′16″ W, thence easterly along the southern shoreline of Fisherman's Cove, to latitude 36°55′15.8″ N, longitude 76°10′58.8″ W, and ending at latitude 36°55′18″ N, longitude 76°10′30″ W, thence to the point of origin.

(2) *The Inner Harbor Restricted Area.* The waters within Little Creek Harbor south of a line beginning at latitude 36°55′15.8″ N, longitude 76°10′58.8″ W, and ending at latitude 36°55′19.3″ N, longitude 76°10′29.5″ W.

(b) *The Regulations.* (1) All vessels intending to transit inbound/outbound of the Little Creek Restricted Areas shall notify the Little Creek Port Control of their destination and intentions.

(2) *The Outer Harbor Restricted Area.* All privately owned vessels properly registered and bearing identification in accordance with Federal and/or State laws and regulations, and all Government owned vessels (public vessels) may enter or exit the waters described in paragraph (a)(1) of this section at any time and transit inbound/outbound of the marked dredged channel leading to Little Creek Harbor between jetties 8 miles westward of Cape Henry Light. All vessels entering or exiting the channel must notify Little Creek Port Control using VHF–FM channel 12, stating their destination/intention. All vessels transiting inbound/outbound of the channel except as noted in paragraph (c)(2) of this section shall proceed at speeds commensurate with minimum wake unless approved by Little Creek Port Control

(3) *The Inner Harbor Restricted Area.* Vessels or persons intending to transit inbound/outbound within the waters described in paragraph (a)(2) of this section shall request permission from Little Creek Port Control with the exception of those listed in paragraph (c)(2) of this section. This permission shall suffice for Outer Harbor notification. The Inner Harbor Restricted Area is restricted to those privately owned vessels or persons calling upon the commercial/private piers located within the Inner Harbor and Government owned vessels (public vessels) transiting to and from U.S. Navy or U.S. Coast Guard facilities, and authorized Department of Defense patrons of the U.S. Navy recreational marina. No other vessels or persons may enter or exit this area unless specific authorization is granted by Commanding Officer, Joint Expeditionary Base Little Creek-Fort Story, and/or other persons or agencies as he/she may designate.

(4) All vessels or persons transiting inbound/outbound of the Outer and Inner Harbor restricted areas are subject to all applicable federal and state laws including laws or regulations designed to protect the naval facility, and persons or vessels assigned therein. Federal and State law enforcement officials may at any time take action to ensure compliance with their respective laws. In addition, this regulation authorizes Navy security personnel, designated by Commander, Joint Expeditionary Base Little Creek-Fort Story or persons authorized to act in his/her behalf, the authority to ascertain the identity and intent of any vessels and/or persons transiting the restricted area that indicate by way of appearance or action they are a possible threat to government assets. If a determination is made that the vessel and/or persons are a threat to government assets located within the restricted area, Navy security units may take actions as provided by law or regulation that are deemed necessary to protect government personnel and assets located within the restricted area.

(c) *Enforcement.* (1) The regulations in this section shall be enforced by the Commanding Officer, Joint Expeditionary Base Little Creek-Fort Story and/or persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter anywhere in the restricted area at any time in the operation of their statutory missions or to enforce their respective laws.

(3) Nothing in this regulation is deemed to preempt 33 CFR 165.501.

(4) Vessels or persons calling upon the commercial/private piers located within the Inner Harbor with proper identification and clearance will be allowed entry subject to the same

provisions described in paragraph (b) of this section. Commander, Joint Expeditionary Base Little Creek-Fort Story reserves the right to temporarily deny entry in emergency situations, elevated Department of Defense Force Protection conditions in the Harbor, or other safety of navigation constraints.

Dated: May 11, 2018.

Thomas P. Smith,

Chief, Operations and Regulatory Division, Directorate of Civil Works.

[FR Doc. 2018–11017 Filed 5–22–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2017–0028; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB73

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2018–19 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter, Service or we) proposes special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2018–19 migratory bird hunting season.

DATES: You must submit comments on the proposed regulations by June 22, 2018.

ADDRESSES: *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2017–0028.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2017–0028; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION: As part of the Department of the Interior's (DOI's) retrospective regulatory review, we developed a schedule for migratory game bird hunting regulations that is more efficient and will provide dates much earlier than was possible under the old process. This will facilitate planning for the States and all parties interested in migratory bird hunting. Beginning in the summer of 2015, with the development of the 2016–17 hunting seasons, we are using a new schedule for establishing our annual migratory game bird hunting regulations. We will combine the current early- and late-season regulatory actions into a single process, based on predictions derived from long-term biological information and harvest strategies, to establish migratory bird hunting seasons much earlier than the system we have used for many years. Under the new process, we will develop proposed hunting season frameworks for a given year in the fall of the prior year. We will finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. This rulemaking is part of that process.

We developed the guidelines for establishing special migratory bird hunting regulations for Indian Tribes in response to tribal requests for recognition of their reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both tribal and nontribal hunters on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal and nontribal hunters, with hunting by nontribal hunters on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of the usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10 to September 1 closed season mandated by the 1916 Convention between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Treaty). The guidelines apply to those Tribes having recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal hunters on all lands within the exterior boundaries of reservations where Tribes have full wildlife management authority over such hunting or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal hunters on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, we encourage the Tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a Tribe and State with the aim of facilitating an accord. We also will consult jointly with tribal and State officials in the affected States where Tribes wish to establish special hunting regulations for tribal members on ceded lands. Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, we provide the following clarification.

We routinely provide copies of **Federal Register** publications pertaining to migratory bird management to all State Directors, Tribes, and other interested parties. It is the responsibility of the States, Tribes, and others to notify us of any concern regarding any feature(s) of any regulations. When we receive such notification, we will initiate consultation.

Our guidelines provide for the continued harvest of waterfowl and other migratory game birds by tribal members on reservations where such harvest has been a customary practice. We do not oppose this harvest, provided it does not take place during the closed season defined by the Treaty, and does not adversely affect the status of the migratory bird resource. Before developing the guidelines, we reviewed available information on the current status of migratory bird populations, reviewed the current status of migratory bird hunting on Federal Indian reservations, and evaluated the potential

impact of such guidelines on migratory birds. We concluded that the impact of migratory bird harvest by tribal members hunting on their reservations is minimal.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for nontribal hunters on dates that are within Federal frameworks, but which are different from those established by the State(s) where the reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make this unlikely, and we may modify regulations or establish experimental special hunts, after evaluation of information obtained by the Tribes.

We conclude the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian Tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. Further, the guidelines should not be viewed as inflexible. In this regard, we note that they have been employed successfully since 1985. We conclude they have been tested adequately, and, therefore, we made them final beginning with the 1988–89 hunting season (53 FR 31612, August 18, 1988). We should stress here, however, that use of the guidelines is not mandatory, and no action is required if a Tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Regulations Schedule for 2018

On August 3, 2017, we published a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20 (82 FR 36308). The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2018–19 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in an August 3, 2017, proposed rule.

On October 3, 2017, we published in the **Federal Register** (82 FR 46011) a second document providing supplemental proposals for migratory bird hunting regulations. The October 3 supplement also provided detailed information on the 2018–19 regulatory schedule and re-announced the SRC and Flyway Council meetings.

On October 17–18, 2017, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2018–19 regulations for these species.

On February 2, 2018, we published in the **Federal Register** (83 FR 4964) the proposed frameworks for the 2018–19 season migratory bird hunting regulations.

Population Status and Harvest

Each year we publish various species status reports that provide detailed information on the status and harvest of migratory game birds, including information on the methodologies and results. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following reports: Adaptive Harvest Management, 2017 Hunting Season (September, 2017); American Woodcock Population Status, 2017 (August, 2017); Band-tailed Pigeon Population Status, 2017 (August, 2017); Migratory Bird Hunting Activity and Harvest During the 2015–16 and 2016–17 Hunting Seasons (August, 2017); Mourning Dove Population Status, 2017 (August, 2017); Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2017 (August, 2017); and Waterfowl Population Status, 2017 (August, 2017).

Hunting Season Proposals From Indian Tribes and Organizations

For the 2018–19 hunting season, we received requests from 23 Tribes and Indian organizations. In this proposed rule, we respond to these 23 requests and also evaluate anticipated requests for 6 Tribes from whom we usually hear but from whom we have not yet received proposals. We actively solicit regulatory proposals from other tribal groups that are interested in working cooperatively for the benefit of waterfowl and other migratory game birds. We encourage Tribes to work with us to develop agreements for management of migratory bird resources on tribal lands.

The proposed frameworks for flyway regulations were published in the **Federal Register** on February 2, 2018 (83 FR 4964). As previously discussed, no action is required by Tribes wishing to observe migratory bird hunting regulations established by the State(s) where they are located. The proposed regulations for the 29 Tribes that meet the established criteria or have recently proposed seasons are shown below.

(a) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal and Nontribal Hunters)

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the Tribes are currently operating under a cooperative agreement signed in 1990, which addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation.

As in the past, tribal regulations for nontribal hunters would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose, duck, and coot season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana. Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise to sunset. Steel shot or other federally approved nontoxic shots are the only legal shotgun loads on the reservation for waterfowl or other game birds.

For tribal members, the Tribe proposes outside frameworks for ducks and geese of September 1, 2018, through March 9, 2019. Daily bag and possession limits were not proposed for tribal members.

The requested season dates and bag limits are similar to past regulations. Harvest levels are not expected to change significantly. Standardized check station data from the 1993–94 and 1994–95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by nontribal hunters.

We propose to approve the Tribes' request for special migratory bird regulations for the 2018–19 hunting season.

(b) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

Since 1996, the Service and the Fond du Lac Band of Lake Superior Chippewa Indians have cooperated to establish special migratory bird hunting regulations for tribal members. The Fond du Lac's proposal covers land set apart for the band under the Treaties of 1837 and 1854 in northeastern and east-

central Minnesota and the Band's Reservation near Duluth.

The band's proposal for 2018–19 is essentially the same as that approved last year. The proposed 2018–19 waterfowl hunting season regulations for Fond du Lac are as follows:

Ducks

A. 1854 and 1837 Ceded Territories

Season Dates: Begin September 8 and end November 30, 2018.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

B. Reservation

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (only 2 of which may be hens), 6 black ducks, 6 scaup, 6 redheads, 6 pintails, 6 wood ducks, and 6 canvasbacks.

Mergansers

A. 1854 and 1837 Ceded Territories

Season Dates: Begin September 8 and end November 30, 2018.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

B. Reservation

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese: All Areas

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 20 geese.

Sandhill Cranes: 1854 and 1837 Ceded Territories Only

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: Two sandhill cranes. A crane carcass tag is required prior to hunting.

Coots and Common Moorhens (Common Gallinules)

A. 1854 and 1837 Ceded Territories

Season Dates: Begin September 8 and end November 30, 2018.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

B. Reservation

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails: All Areas

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe: All Areas

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: Eight common snipe.

Woodcock: All Areas

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: Three woodcock.

Mourning Dove: All Areas

Season Dates: Begin September 1 and end November 30, 2018.

Daily Bag Limit: 30 mourning doves.

The following general conditions apply:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid Ceded Territory License.

2. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset.

3. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

4. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

5. There are no possession limits for migratory birds. For purposes of enforcing bag limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

The band anticipates harvest will be fewer than 500 ducks and geese, and fewer than 10 sandhill cranes.

We propose to approve the request for special migratory bird hunting regulations for the Fond du Lac Band of Lake Superior Chippewa Indians.

(c) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

In the 1995–96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service first cooperated to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized Tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2018–19 season, the Tribe requests that the tribal member duck season run from September 1, 2018, through January 20, 2019. A daily bag limit of 35 would include no more than 8 pintail, 4 canvasback, 5 hooded merganser, 8 black ducks, 8 wood ducks, 8 redheads, and 20 mallards (only 10 of which may be hens).

For Canada and snow geese, the Tribe proposes a September 1, 2018, through February 15, 2019, season. For white-fronted geese and brant, the Tribe proposes a September 20 through December 30, 2018, season. The daily bag limit for Canada and snow geese would be 15, and the daily bag limit for white-fronted geese and including brant would be 5 birds. We further note that, based on available data (of major goose migration routes), it is unlikely that any Canada geese from the Southern James Bay Population will be harvested by the Tribe.

For woodcock, the Tribe proposes a September 1 through November 14, 2018, season. The daily bag limit will not exceed five birds. For mourning doves, snipe, and rails, the Tribe proposes a September 1 through November 14, 2018, season. The daily bag limit would be 15 mourning dove, 10 snipe, and 10 rail.

For sandhill crane, the Tribe proposes a September 1 through November 14, 2018, season. The daily bag limit would be 2 birds and a season limit of 10 birds.

For snipe and rails, the Tribe proposes a September 1 through November 14, 2018, season. The daily bag limit would be 10 birds per species.

Shooting hours would be from one-half hour before sunrise to one-half hour after sunset. All other Federal regulations contained in 50 CFR part 20 would apply. The Tribe proposes to monitor harvest closely through game bag checks, patrols, and mail surveys. Harvest surveys from the 2013–14 hunting season indicated that

approximately 30 tribal hunters harvested an estimated 100 ducks and 45 Canada geese.

We propose to approve the Grand Traverse Band of Ottawa and Chippewa Indians 2018–19 special migratory bird hunting proposal.

(d) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized, off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) (GLIFWC is an intertribal agency exercising delegated natural resource management and regulatory authority from its member Tribes in portions of Wisconsin, Michigan, and Minnesota). Beginning in 1986, a Tribal season on ceded lands in the western portion of the Michigan Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources. We have approved regulations for Tribal members in both Michigan and Wisconsin since the 1986–87 hunting season. In 1987, GLIFWC requested, and we approved, regulations to permit Tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin originally concurred with the regulations, although both Wisconsin and Michigan have raised various concerns over the years. Minnesota did not concur with the original regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. In 1999, the U.S. Supreme Court upheld the existence of the tribes' treaty reserved rights in *Minnesota* v. *Mille Lacs Band,* 199 S. Ct. 1187 (1999).

We acknowledge all of the States' concerns, but point out that the U.S. Government has recognized the Indian treaty reserved rights, and that acceptable hunting regulations have been successfully implemented in Minnesota, Michigan, and Wisconsin. Consequently, in view of the above, we have approved regulations since the 1987–88 hunting season on ceded lands in all three States. In fact, this recognition of the principle of treaty reserved rights for band members to hunt and fish was pivotal in our decision to approve a 1991–92 season for the 1836 ceded area in Michigan. Since then, in the 2007 Consent Decree, the 1836 Treaty Tribes' and Michigan Department of Natural Resources and Environment established court-approved regulations pertaining to off-reservation hunting rights for migratory birds.

For 2018, GLIFWC proposes off-reservation special migratory bird hunting regulations on behalf of the member Tribes of the Voigt Intertribal Task Force of GLIFWC (for the 1837 and 1842 Treaty areas in Wisconsin and Michigan), the Mille Lacs Band of Ojibwe and the six Wisconsin Bands (for the 1837 Treaty area in Minnesota), and the Bay Mills Indian Community (for the 1836 Treaty area in Michigan). Member Tribes of the Task Force are: the Bad River Band of the Lake Superior Tribe of Chippewa Indians, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Red Cliff Band of Lake Superior Chippewa Indians, the St. Croix Chippewa Indians of Wisconsin, and the Sokaogon Chippewa Community (Mole Lake Band), all in Wisconsin; the Mille Lacs Band of Chippewa Indians and the Fond du Lac Band of Lake Superior Chippewa Indians in Minnesota; and the Lac Vieux Desert Band of Chippewa Indians and the Keweenaw Bay Indian Community in Michigan.

Last year, GLIFWC proposed, and we approved, four regulatory changes from previous years' regulations for the 2017–18 hunting season (83 FR 5037, February 5, 2018). First, in the 1837 and 1842 Treaty Areas, GLIFWC proposed allowing up to 50 Tribal hunters to use electronic calls for any open season under a limited and experimental design under a special Tribal permit. In addition to obtaining a special permit, the Tribal hunter would be required to complete and submit a hunt diary for each hunt where electronic calls were used. Second, GLIFWC proposed allowing the take of migratory birds (primarily waterfowl) with the use of hand-held nets, hand-held snares, and/or capture of birds by hand in the 1837 and 1842 Treaty Areas. This use of nets, snares, or hand-capture included the take of birds at night. GLIFWC proposed that both the use of electronic calls and the use of nets, snares, or hand-capture be considered 3-year experimental seasons. Third, GLIFWC proposed moving the opening of the current swan season to September 1 rather than November 1 in the 1837 and 1842 Treaty Areas. However, the trumpeter swan quota remained at 10 swans. Lastly, GLIFWC proposed implementing a sandhill crane hunting season in the 1836 Treaty Area. While we proposed approving all four of GLIFWC's proposals in our August 27, 2017, proposed rule (82 FR 39716), in our February 5, 2018, final rule (83 FR 5037), we inadvertently failed to mention or approve the proposals dealing with the swan season and the sandhill crane season. We propose to approve those two specific proposals again this year. Further, due to the timing of the final rule, GLIFWC was not able to actually implement any of the regulatory changes approved last hunting season. Thus, no data were collected for these regulatory changes from last year. As such, since several of these approved regulatory changes were designated as experimental for a period of 3 years, we propose to extend these experiments by 1 additional year in order to have 3 years of actual data collection. This proposed extension is similar to those we have granted to Flyways and States in conducting their experimental seasons. For more specific discussion on these regulatory changes, we refer the reader to the August 27, 2017, and February 5, 2018, rules (82 FR 39716 and 83 FR 5037).

Under GLIFWC's proposed 2018–19 regulations, GLIFWC expects total ceded territory harvest to be approximately 2,000 to 3,000 ducks, 400 to 600 geese, 20 sandhill cranes, and 20 swans, which, with the exception of ducks, is roughly similar to anticipated levels in previous years for those species for which seasons were established. GLIFWC further anticipates that tribal harvest will remain low given the small number of tribal hunters and the limited opportunity to harvest more than a small number of birds on most hunting trips.

Recent GLIFWC harvest surveys (1996–98, 2001, 2004, 2007–08, 2011, 2012, and 2015) indicate that tribal off-reservation waterfowl harvest has averaged fewer than 1,100 ducks and 250 geese annually. In the latest survey year for which we have specific results (2015), an estimated 297 hunters hunted a total of 2,190 days and harvested 2,727 ducks (1.2 ducks per day) and 639 geese. The greatest number of ducks reported harvested in a single day was 10, while the highest number of geese reported taken on a single outing was 6. Mallards, wood ducks, and blue-winged teal composed about 72 percent of the duck harvest. Two sandhill cranes were reported harvested in each of the first three Tribal sandhill crane seasons, with 3 reported harvested in 2015. No swans have been harvested. About 81 percent of the estimated hunting days took place

in Wisconsin, with the remainder occurring in Michigan. As in past years, most hunting took place in or near counties with reservations. Overall, analysis of hunter survey data over 1996–2015 indicates a general downward, or flat, trend in both harvest and hunter participation

The proposed 2018–19 waterfowl hunting season regulations apply to all treaty areas (except where noted) for GLIFWC as follows:

Ducks

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 50 ducks in the 1837 and 1842 Treaty Area; 30 ducks in the 1836 Treaty Area.

Mergansers

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2018. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting outside of these dates will also be open concurrently for tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds

A. Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag and Possession Limits: 20, singly, or in the aggregate, 25.

C. Common Snipe:

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 16 common snipe.

D. Woodcock

Season Dates: Begin September 4 and end December 31, 2018.

Daily Bag Limit: 10 woodcock.

E. Mourning Dove: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end November 29, 2018.

Daily Bag Limit: 15 mourning doves.

F. Sandhill Cranes

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 2 cranes and no seasonal bag limit in the 1837 and 1842 Treaty areas; 1 crane with a seasonal bag limit of 3 in the 1836 Treaty area.

G. Swans: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end December 31, 2018.

Daily Bag Limit: 2 swans. All harvested swans must be registered by presenting the fully-feathered carcass to a tribal registration station or GLIFWC warden. If the total number of trumpeter swans harvested reaches 10, the swan season will be closed by emergency tribal rule.

General Conditions

A. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt)* and *Mille Lacs Band* v. *State of Minnesota* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. Both versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations adopted in response to this proposal.

C. Particular regulations of note include:

1. Nontoxic shot will be required for all waterfowl hunting by tribal members.

2. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. There are no possession limits, with the exception of 2 swans (in the aggregate) and 25 rails (in the aggregate). For purposes of enforcing bag limits, all migratory birds in the possession and custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

4. The baiting restrictions included in the respective section 10.05(2)(h) of the model ceded territory conservation codes will be amended to include language which parallels that in place for nontribal members as published at 64 FR 29799, June 3, 1999.

5. There are no shell limit restrictions.

6. Hunting hours are from 30 minutes before sunrise to 30 minutes after sunset, except that, within the 1837 and 1842 Ceded Territories, hunters may use non-mechanical nets or snares that are operated by hand to take those birds subject to an open hunting season at any time (see #8 below for further information). Hunters shall also be permitted to capture, without the aid of other devices (*i.e.,* by hand) and immediately kill birds subject to an open season, regardless of the time of day.

7. An experimental application of electronic calls will be implemented in the 1837 and 1842 Ceded Territories. Up to 50 tribal hunters will be allowed to use electronic calls. Individuals using these devices will be required to obtain a special permit; they will be required to complete a hunt diary for each hunt where electronic calls are used; and they will be required to submit the hunt diary to the Commission within 2 weeks of the end of the season in order to be eligible to obtain an permit for the following year. Required information will include the date, time, and location of the hunt; number of hunters; the number of each species harvested per hunting event; if other hunters were in the area, any interactions with other hunters; and other information deemed appropriate. Diary results will be summarized and documented in a Commission report, which will be submitted to the Service. Barring unforeseen results, this experimental application would be replicated for 3 years (through the 2020–21 season), after which a full evaluation would be completed.

8. Within the 1837 and 1842 Ceded Territories, tribal members will be allowed to use non-mechanical, hand-operated nets (*i.e.,* throw/cast nets or hand-held nets typically used to land fish) and hand-operated snares, and may chase and capture migratory birds without the aid of hunting devices (*i.e.,* by hand). At this time, non-attended nets or snares shall not be authorized under this regulation. Tribal members using nets or snares to take migratory birds, or taking birds by hand, will be required to obtain a special permit; they will be required to complete a hunt diary for each hunt where these methods are used; and they will be required to submit the hunt diary to the Commission within 2 weeks of the end of the season in order to be eligible to obtain a permit to net migratory birds

for the following year. Required information will include the date, time, and location of the hunt; number of hunters; the number of each species harvested per hunting event; and other information deemed appropriate. Diary results will be summarized and documented in a Commission report, which will be submitted to the Service. Barring unforeseen results, this experimental application would be replicated for 3 years (through the 2020–21 season), after which a full evaluation would be completed.

We propose to approve the above GLIFWC regulations for the 2018–19 hunting season.

(e) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The Tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

The Tribe proposes a 2018–19 waterfowl and Canada goose season beginning October 6, 2018, and a closing date of November 30, 2018. Daily bag and possession limits for waterfowl would be the same as Pacific Flyway States. The Tribe proposes a daily bag limit for Canada geese of two. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

During the Jicarilla Game and Fish Department's 2016–17 season, estimated duck harvest was 63. The species composition included mainly mallards, gadwall, American wigeon, and teal. The estimated harvest of geese was 0 birds.

The proposed regulations are essentially the same as were established last year. The Tribe anticipates the maximum 2018–19 waterfowl harvest would be around 300 ducks and 30 geese.

We propose to approve the Tribe's requested 2018–19 hunting seasons.

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4,600 acres. The Tribe owns all Reservation land and has full management authority. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The Tribe enjoys excellent wildlife management relations with the State. The Tribe and the State have an operational memorandum of understanding with emphasis on fisheries but also for wildlife.

The nontribal member seasons described below pertain to a 176-acre waterfowl management unit and 800 acres of reservation land with a guide for waterfowl hunting. The Tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area. Beginning in 1996, the requested regulations also included a proposal for Kalispel-member-only migratory bird hunting on Kalispel-ceded lands within Washington, Montana, and Idaho.

For the 2018–19 migratory bird hunting seasons, the Kalispel Tribe proposes tribal and nontribal member waterfowl seasons. The Tribe requests that both duck and goose seasons open at the earliest possible date and close on the latest date under Federal frameworks.

For nontribal hunters on Tribally managed lands, the Tribe requests the seasons open at the earliest possible date and remain open, for the maximum amount of open days. Specifically, the Tribe requests a season for ducks run September 15–16, 2018, September 22–23, 2018, and from October 1, 2018, to January 8, 2019. In that period, nontribal hunters would be allowed to hunt approximately 107 days. Hunters should obtain further information on specific hunt days from the Kalispel Tribe.

For nontribal hunters on Tribally managed lands, the Tribe also requests a season for geese run September 15–16, 2018, September 22–23, 2018, and from October 1, 2018, to January 8, 2019. Total number of days should not exceed 107. Nontribal hunters should obtain further information on specific hunt days from the Tribe. Daily bag and possession limits would be the same as those for the State of Washington.

The Tribe reports past nontribal harvest of 1.5 ducks per day. Under the proposal, the Tribe expects harvest to be similar to last year, that is, fewer than 100 geese and 200 ducks.

All other State and Federal regulations contained in 50 CFR part 20, such as use of nontoxic shot and possession of a signed migratory bird hunting and conservation stamp, would be required.

For tribal members on Kalispel-ceded lands, the Kalispel Tribe proposes season dates for ducks of October 1, 2018, through January 31, 2019, and for geese of September 10, 2018, through January 31, 2019. Daily bag and possession limits would parallel those in the Federal regulations contained in 50 CFR part 20.

The Tribe reports that there was no tribal harvest. Under the proposal, the Tribe expects harvest to be fewer than 200 birds for the season with fewer than 100 geese. Tribal members would be required to possess a signed Federal migratory bird stamp and a tribal ceded lands permit.

We propose to approve the regulations requested by the Kalispel Tribe, since these dates conform to Federal flyway frameworks for the Pacific Flyway.

(g) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing, and gathering rights within its former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon, and the Klamath Tribe. The Klamath Indian Game Commission sets the seasons. The tribal biological staff and tribal regulatory enforcement officers monitor tribal harvest by frequent bag checks and hunter interviews.

For the 2018–19 seasons, the Tribe requests proposed season dates of October 6, 2018, through January 31, 2019. Daily bag limits would be 9 for ducks, 9 for geese, and 9 for coot, with possession limits twice the daily bag limit. Shooting hours would be one-half hour before sunrise to one-half hour after sunset. Steel shot is required.

Based on the number of birds produced in the Klamath Basin, this year's harvest would be similar to last year's. Information on tribal harvest suggests that more than 70 percent of the annual goose harvest is local birds produced in the Klamath Basin.

We propose to approve those 2018–19 special migratory bird hunting regulations.

(h) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)

The Leech Lake Band of Ojibwe is a federally recognized Tribe located in Cass Lake, Minnesota. The reservation employs conservation officers to enforce

conservation regulations. The Service and the Tribe have cooperatively established migratory bird hunting regulations since 2000.

For the 2018–19 season, the Tribe requests a duck season starting on September 15 and ending December 31, 2018, and a goose season to run from September 1 through December 31, 2018. Daily bag limits for ducks would be 10, including no more than 5 pintail, 5 canvasback, and 5 black ducks. Daily bag limits for geese would be 10. Possession limits would be twice the daily bag limit. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

The annual harvest by tribal members on the Leech Lake Reservation is estimated at 250 to 500 birds.

We propose to approve the Leech Lake Band of Ojibwe's requested 2018–19 special migratory bird hunting season.

(i) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

The Little River Band of Ottawa Indians (LRBOI) is a self-governing, federally recognized Tribe located in Manistee, Michigan, and a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season. Ceded lands are located in Lake, Mason, Manistee, and Wexford Counties. The Band proposes regulations to govern the hunting of migratory birds by Tribal members within the 1836 Ceded Territory as well as on the Band's Reservation.

We have not yet heard from the LRBOI for the 2018–19 season. The Little River Band of Ottawa Indians usually proposes a duck and merganser season from September 9, 2018, through January 26, 2019. A daily bag limit of 12 ducks would include no more than 2 pintail, 2 canvasback, 3 black ducks, 3 wood ducks, 3 redheads, 6 mallards (only 2 of which may be a hen), 1 bufflehead, and 1 hooded merganser. Possession limits would be twice the daily bag limit.

For coots and gallinules, the Tribe usually proposes a September 15, 2018, through January 26, 2019, season. Daily bag limits would be five coot and five gallinule.

For white-fronted geese, snow geese, and brant, the Tribe usually proposes a September 8 through December 10, 2018, season. Daily bag limits would be five geese.

For Canada geese only, the Tribe usually proposes a September 1, 2018, through February 4, 2019, season with a daily bag limit of five. The possession limit would be twice the daily bag limit.

For snipe, woodcock, rails, and mourning doves, the Tribe usually proposes a September 1 to November 12, 2018, season. The daily bag limit would be 10 common snipe, 5 woodcock, 10 rails, and 10 mourning doves. Possession limits for all species would be twice the daily bag limit.

The Tribe monitors harvest through mail surveys. General conditions are as follows:

A. All tribal members will be required to obtain a valid tribal resource card and 2018–19 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20. Shooting hours will be from one-half hour before sunrise to sunset.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

Upon receipt of their proposal, we plan to approve Little River Band of Ottawa Indians' 2018–19 special migratory bird hunting seasons.

(j) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only)

The Little Traverse Bay Bands of Odawa Indians (LTBB) is a self-governing, federally recognized Tribe located in Petoskey, Michigan, and a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2018–19 season, the LTBB proposes regulations similar to those of other Tribes in the 1836 treaty area. The LTBB proposes the regulations to govern the hunting of migratory birds by tribal members on the LTBB reservation and within the 1836 Treaty Ceded Territory. The tribal member duck and merganser season would usually run from September 1, 2018, through January 31, 2019. A daily bag limit of 20 ducks and 10 mergansers would include no more than 5 hen mallards, 5 pintail, 5 canvasback, 5 scaup, 5 hooded merganser, 5 black ducks, 5 wood ducks, and 5 redheads.

For Canada geese, the LTBB proposes a September 1, 2018, through February 8, 2019, season. The daily bag limit for Canada geese would be 20 birds. We further note that, based on available data (of major goose migration routes), it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the LTBB. Possession limits are twice the daily bag limit.

For woodcock, the LTBB proposes a September 1 to December 1, 2018, season. The daily bag limit will not exceed 10 birds. For snipe, the LTBB proposes a September 1 to December 31, 2018, season. The daily bag limit will not exceed 16 birds. For mourning doves, the LTBB proposes a September 1 to November 14, 2018, season. The daily bag limit will not exceed 15 birds. For Virginia and sora rails, the LTBB proposes a September 1 to December 31, 2018, season. The daily bag limit will not exceed 20 birds per species. For coots and gallinules, the LTBB proposes a September 15 to December 31, 2018, season. The daily bag limit will not exceed 20 birds per species. The possession limit will not exceed 2 days' bag limit for all birds.

The LTBB also proposes a sandhill crane season to begin September 1 and end December 1, 2018. The daily bag limit will not exceed one bird. The possession limit will not exceed two times the bag limit.

All other Federal regulations contained in 50 CFR part 20 would apply.

Harvest surveys from 2015–16 hunting season indicated that approximately 15 hunters harvested 9 different waterfowl species. No sandhill cranes were reported harvested during the 2015–16 season. The LTBB proposes to monitor harvest closely through game bag checks, patrols, and mail surveys. In particular, the LTBB proposes monitoring the harvest of Southern James Bay Canada geese and sandhill cranes to assess any impacts of tribal hunting on the population.

We propose to approve the Little Traverse Bay Bands of Odawa Indians' requested 2018–19 special migratory bird hunting regulations.

(k) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

The Lower Brule Sioux Tribe first established tribal migratory bird hunting

regulations for the Lower Brule Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, and until recently, the Lower Brule Tribe had full management authority over fish and wildlife via a memorandum of agreement (MOA) with the State of South Dakota. The MOA provided the Tribe jurisdiction over fish and wildlife on reservation lands, including deeded and U.S. Army Corps of Engineers-taken lands. For the 2018–19 season, the two parties have come to an agreement that provides the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule Reservation waterfowl season is open to tribal and nontribal hunters.

For the 2018–19 migratory bird hunting season, the Lower Brule Sioux Tribe proposes a nontribal member duck, merganser, and coot season length of 97 days, or the maximum number of days allowed by Federal frameworks in the High Plains Management Unit for this season. The Tribe proposes a duck season from October 6, 2018, through January 10, 2019. The daily bag limit would be six birds or the maximum number that Federal regulations allow, including no more than two hen mallard and five mallards total, two pintail, two redhead, two canvasback, three wood duck, three scaup, and one mottled duck. Two bonus blue-winged teal are allowed during October 6–21, 2018. The daily bag limit for mergansers would be five, only two of which could be a hooded merganser. The daily bag limit for coots would be 15. Possession limits would be three times the daily bag limits.

The Tribe's proposed nontribal-member Canada goose season would run from October 27, 2018, through February 10, 2019 (107-day season length), with a daily bag limit of six Canada geese. The Tribe's proposed nontribal member white-fronted goose season would run from October 27, 2018, through January 22, 2019, with a daily bag and possession limits concurrent with Federal regulations. The Tribe's proposed nontribal-member light goose season would run from October 27, 2018, through February 10, 2019, and February 11 through May 1, 2019. The light goose daily bag limit would be 20 or the maximum number that Federal regulations allow with no possession limits.

For tribal members, the Lower Brule Sioux Tribe proposes a duck, merganser, and coot season from September 1, 2018, through March 10, 2019. The daily bag limit would be six ducks, including no more than two hen mallard and five mallards total, two pintail, two redheads, two canvasback, three wood ducks, three scaup, two bonus teal during the first 16 days of the season, and one mottled duck or the maximum number that Federal regulations allow. The daily bag limit for mergansers would be five, only two of which could be hooded mergansers. The daily bag limit for coots would be 15. Possession limits would be three times the daily bag limits.

The Tribe's proposed Canada goose season for tribal members would run from September 1, 2018, through March 10, 2019, with a daily bag limit of six Canada geese. The Tribe's proposed white-fronted goose tribal season would run from September 1, 2018, through March 10, 2019, with a daily bag limit of two white-fronted geese or the maximum number that Federal regulations allow. The Tribe's proposed light goose tribal season would run from September 1, 2018, through March 10, 2019. A conservation order will also occur March 11, 2019, through May 1, 2019. The light goose daily bag limit would be 20 or the maximum number that Federal regulations allow, with no possession limits.

The Tribe proposes a dove season for both Tribal and non-Tribal members from September 1, 2018, through November 29, 2018. The dove daily bag limit would be 15.

In the 2016 season, nontribal members harvested 774 geese and 1,158 ducks. In the 2016 season, duck harvest species composition was primarily mallard (65 percent), green-winged teal (21 percent), and wigeon (2 percent).

The Tribe anticipates a duck and goose harvest similar to those of the previous years. All basic Federal regulations contained in 50 CFR part 20, including the use of nontoxic shot, Migratory Bird Hunting and Conservation Stamps, etc., would be observed by the Tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution in June 1982 and updated in 1996.

We plan to approve the Tribe's requested regulations for the Lower Brule Reservation if the seasons' dates fall within final Federal flyway frameworks (applies to nontribal hunters only).

(l) Lower Elwha Klallam Tribe, Port Angeles, Washington (Tribal Members Only)

Since 1996, the Service and the Point No Point Treaty Tribes, of which Lower Elwha was one, have cooperated to establish special regulations for migratory bird hunting. The Tribes are now acting independently, and the Lower Elwha Klallam Tribe would like to establish migratory bird hunting regulations for tribal members for the 2018–19 season. The Tribe has a reservation on the Olympic Peninsula in Washington State and is a successor to the signatories of the Treaty of Point No Point of 1855.

For the 2018–19 season, we have yet to hear from the Lower Elwha Klallam Tribe. The Tribe usually requests special migratory bird hunting regulations for ducks (including mergansers), geese, coots, band-tailed pigeons, snipe, and mourning doves. The Lower Elwha Klallam Tribe usually requests a duck and coot season from September 13, 2018, to January 4, 2019. The daily bag limit will be seven ducks, including no more than two hen mallards, one pintail, one canvasback, and two redheads. The daily bag and possession limit on harlequin duck will be one per season. The coot daily bag limit will be 25. The possession limit will be twice the daily bag limit, except as noted above.

For geese, the Tribe usually requests a season from September 13, 2018, to January 4, 2019. The daily bag limit will be four, including no more than three light geese. The season on Aleutian Canada geese will be closed.

For brant, the Tribe usually proposes to close the season.

For mourning doves, band-tailed pigeon, and snipe, the Tribe usually requests a season from September 1, 2018, to January 11, 2019, with a daily bag limit of 10, 2, and 8, respectively. The possession limit will be twice the daily bag limit.

All Tribal hunters authorized to hunt migratory birds are required to obtain a tribal hunting permit from the Lower Elwha Klallam Tribe pursuant to tribal law. Hunting hours would be from one-half hour before sunrise to sunset. Only steel, tungsten-iron, tungsten-polymer, tungsten-matrix, and tin shot are allowed for hunting waterfowl. It is unlawful to use or possess lead shot while hunting waterfowl.

The Tribe typically anticipates harvest to be fewer than 10 birds. Tribal reservation police and Tribal fisheries enforcement officers have the authority to enforce these migratory bird hunting regulations.

The Service proposes to approve the special migratory bird hunting regulations for the Lower Elwha Klallam Tribe, upon receipt of their proposal.

(m) Makah Indian Tribe, Neah Bay, Washington (Tribal Members Only)

The Makah Indian Tribe and the Service have been cooperating to establish special regulations for migratory game birds on the Makah Reservation and traditional hunting land off the Makah Reservation since the 2001–02 hunting season. Lands off the Makah Reservation are those contained within the boundaries of the State of Washington Game Management Units 601–603.

The Makah Indian Tribe proposes a duck and coot hunting season from September 22, 2018, to January 27, 2019. The daily bag limit is seven ducks, including no more than five mallards (only two hen mallard), one canvasback, one pintail, three scaup, and one redhead. The daily bag limit for coots is 25. The Tribe has a year-round closure on wood ducks and harlequin ducks. Shooting hours for all species of waterfowl are one-half hour before sunrise to sunset.

For geese, the Tribe proposes that the season open on September 22, 2018, and close January 27, 2019. The daily bag limit for geese is four and one brant. The Tribe notes that there is a year-round closure on Aleutian and dusky Canada geese.

For band-tailed pigeons, the Tribe proposes that the season open September 22, 2018, and close October 21, 2018. The daily bag limit for band-tailed pigeons is two.

The Tribe anticipates that harvest under this regulation will be relatively low since there are no known dedicated waterfowl hunters and any harvest of waterfowl or band-tailed pigeons is usually incidental to hunting for other species, such as deer, elk, and bear. The Tribe expects fewer than 50 ducks and 10 geese to be harvested during the 2018–19 migratory bird hunting season.

All other Federal regulations contained in 50 CFR part 20 would apply. The following restrictions are also proposed by the Tribe:

(1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area.

(2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.

(3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation.

(4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

(5) Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited.

(6) The use of dogs is permitted to hunt waterfowl.

The Service proposes to approve the Makah Indian Tribe's requested 2018–19 special migratory bird hunting regulations.

(n) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Since 1985, we have established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The Navajo Nation owns almost all lands on the reservation and has full wildlife management authority.

We have yet to hear from the Navajo Nation for the 2018–19 season. The Tribe usually requests the earliest opening dates and longest duck, mergansers, Canada geese, and coots seasons, and the same daily bag and possession limits allowed to Pacific Flyway States under final Federal frameworks for tribal and nontribal members.

For both mourning dove and band-tailed pigeons, the Navajo Nation usually proposes seasons of September 1 through September 30, 2018, with daily bag limits of 10 and 5, respectively. Possession limits would be twice the daily bag limits.

The Nation requires tribal members and nonmembers to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and manner of taking. In addition, each waterfowl hunter age 16 or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp), which must be signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

The Tribe usually anticipates a total harvest of fewer than 500 mourning doves; fewer than 10 band-tailed pigeons; fewer than 1,000 ducks, coots, and mergansers; and fewer than 1,000 Canada geese for the 2018–19 season. The Tribe measures harvest by mail survey forms. Through the established Navajo Nation Code, titles 17 and 18, and 23 U.S.C. 1165, the Tribe will take action to close the season, reduce bag limits, or take other appropriate actions if the harvest is detrimental to the migratory bird resource.

We propose to approve the Navajo Nation's 2018–19 special migratory bird hunting regulations, upon receipt of their proposal.

(o) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Since 1991–92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and nontribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced the Tribe's hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin, and the majority of the seasons and limits are the same for the Tribe and Wisconsin.

For the 2018–19 season, the Tribe submitted a proposal requesting special migratory bird hunting regulations. For ducks, the Tribe proposal describes the general outside dates as being September 15 through December 2, 2018. The Tribe proposes a daily bag limit of six birds, which could include no more than six mallards (three hen mallards), six wood ducks, one redhead, two pintails, and one hooded merganser.

For geese, the Tribe requests a season between September 1 and December 31, 2018, with a daily bag limit of five Canada geese. If a quota of 500 geese is attained before the season concludes, the Tribe will recommend closing the season early.

For woodcock, the Tribe proposes a season between September 1 and November 4, 2018, with a daily bag and possession limit of two and four, respectively.

For mourning dove, the Tribe proposes a season between September 2 and November 4, 2018, with a daily bag and possession limit of 10 and 20, respectively.

The Tribe proposes shooting hours be one-half hour before sunrise to one-half hour after sunset. Nontribal hunters hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including shooting hours of one-half hour before sunrise to sunset, season dates, and daily bag limits. Tribal members and nontribal hunters hunting on the Reservation or on lands

under the jurisdiction of the Tribe must observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Oneida members would be exempt from the purchase of the Migratory Bird Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

The Service proposes to approve the 2018–19 special migratory bird hunting regulations for the Oneida Tribe of Indians of Wisconsin.

(p) Point No Point Treaty Council Tribes, Kingston, Washington (Tribal Members Only)

We are establishing uniform migratory bird hunting regulations for tribal members on behalf of the Point No Point Treaty Council Tribes, consisting of the Port Gamble S'Klallam and Jamestown S'Klallam Tribes. The two tribes have reservations and ceded areas in northwestern Washington State and are the successors to the signatories of the Treaty of Point No Point of 1855. These proposed regulations will apply to tribal members both on and off reservations within the Point No Point Treaty Areas; however, the Port Gamble S'Klallam and Jamestown S'Klallam Tribal season dates differ only where indicated below.

For the 2018–19 season, the Point No Point Treaty Council requests special migratory bird hunting regulations for both the Jamestown S'Klallam and Port Gamble S'Klallam Tribes. For ducks, the Jamestown S'Klallam Tribe season would open September 1, 2018, and close March 10, 2019, and coots would open September 13, 2018, and close February 1, 2019. The Port Gamble S'Klallam Tribes duck and coot seasons would open from September 1, 2018, to March 10, 2019. The daily bag limit would be seven ducks, including no more than two hen mallards, one canvasback, one pintail, two redhead, and four scoters. The daily bag limit for coots would be seven. The daily bag limit and possession limit on harlequin ducks would be one per season. The daily possession limits are double the daily bag limits except where noted.

For geese, the Point No Point Treaty Council proposes the season open on September 9, 2018, and close March 10, 2019, for the Jamestown S'Klallam Tribe, and open on September 1, 2018, and close March 10, 2019, for the Port Gamble S'Klallam Tribe. The daily bag limit for geese would be five, not to include more than three light geese. The Council notes that there is a year-round closure on dusky Canada geese. For brant, the Council proposes the season open on November 9, 2018, and close January 31, 2019, for the Port Gamble S'Klallam Tribe, and open on January 10 and close January 25, 2019, for the Jamestown S'Klallam Tribe. The daily bag limit for brant would be two.

For band-tailed pigeons, the Port Gamble S'Klallam Tribe season would open September 1, 2018, and close March 10, 2019. The Jamestown S'Klallam Tribe season would open September 13, 2018, and close January 18, 2019. The daily bag limit for band-tailed pigeons would be two. For snipe, the Port Gamble S'Klallam Tribe season would open September 1, 2018, and close March 10, 2019. The Jamestown S'Klallam Tribe season would open September 13, 2018, and close March 10, 2019. The daily bag limit for snipe would be eight. For mourning dove, the Port Gamble S'Klallam Tribe season would open September 1, 2018, and close January 31, 2019. The Jamestown S'Klallam Tribe would open September 13, 2018, and close January 18, 2019. The daily bag limit for mourning dove would be 10.

The Tribe anticipates a total harvest of fewer than 100 birds for the 2018–19 season. The tribal fish and wildlife enforcement officers have the authority to enforce these tribal regulations.

We propose to approve the Point No Point Treaty Council Tribe's requested 2018–19 special migratory bird seasons.

(q) Saginaw Tribe of Chippewa Indians, Mt. Pleasant, Michigan (Tribal Members Only)

The Saginaw Tribe of Chippewa Indians is a federally recognized, self-governing Indian Tribe, located on the Isabella Reservation lands bound by Saginaw Bay in Isabella and Arenac Counties, Michigan.

We have yet to hear from the Saginaw Tribe of Chippewa Indians. For ducks, mergansers, and common snipe, the Tribe usually proposes outside dates as September 1, 2018, through January 31, 2019. The Tribe usually proposes a daily bag limit of 20 ducks, which could include no more than five each of the following: Hen mallards; wood duck; black duck; pintail; red head; scaup; and canvasback. The merganser daily bag limit is 10, with no more than 5 hooded mergansers and 16 for common snipe.

For geese, coot, gallinule, sora, and Virginia rail, the Tribe usually requests a season from September 1, 2018, to January 31, 2019. The daily bag limit for geese is 20, in the aggregate. The daily bag limit for coot, gallinule, sora, and Virginia rail is 20 in the aggregate.

For woodcock and mourning dove, the Tribe usually proposes a season between September 1, 2018, and January 31, 2019, with daily bag limits of 10 and 25, respectively.

For sandhill crane, the Tribe usually proposes a season between September 1, 2018, and January 31, 2019, with a daily bag limit of one.

All Saginaw Tribe members exercising hunting treaty rights are required to comply with Tribal Ordinance 11. Hunting hours would be from one-half hour before sunrise to one-half hour after sunset. All other regulations in 50 CFR part 20 apply, including the use of only nontoxic shot for hunting waterfowl.

The Service proposes to approve the request for 2018–19 special migratory bird hunting regulations for the Saginaw Tribe of Chippewa Indians, upon receipt of their proposal.

(r) Sauk-Suiattle Indian Tribe, Darrington, Washington (Tribal Members Only)

The Sauk-Suiattle Indian Tribe (SSIT) requests a 2018–19 hunting season on all open and unclaimed lands under the Treaty of Point Elliott of January 22, 1855. This 2018–19 proposal is the first year the Tribe is proposing a special migratory bird hunting season. The Tribe's reservation is located in Darrington, Washington, just west of the North Cascade Mountain range in Skagit County on the Sauk and Suiattle Rivers. The Tribe owns and manages all the land on the reservation and some lands surrounding or near the reservation in Skagit and Snohomish Counties. All of the lands that are Tribal or Reservation lands are closed for non-Tribal hunting, unless opened by a SSIT Special Regulation.

The Tribe proposes special migratory bird hunting regulations for ducks, geese, brant, and coot with outside dates as September 1, 2018, through January 31, 2019. The Tribe proposes a daily bag limit of 10 ducks, 5 geese, 5 brant, and 25 coot.

Hunting hours would be from one-half hour before sunrise to one-half hour after sunset. All other regulations in 50 CFR part 20 apply, including the use of only nontoxic shot for hunting waterfowl.

The Service proposes to approve the request for 2018–19 special migratory bird hunting regulations for the Sauk-Suiattle Indian Tribe.

(s) Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only)

The Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized, self-governing Indian Tribe, distributed throughout the eastern Upper Peninsula and northern Lower Peninsula of Michigan. The Tribe has retained the right to hunt, fish, trap, and

gather on the lands ceded in the Treaty of Washington (1836).

The Tribe proposes special migratory bird hunting regulations. For ducks, mergansers, and common snipe, the Tribe proposes outside dates as September 15 through December 31, 2018. The Tribe proposes a daily bag limit of 20 ducks, which could include no more than 10 mallards (5 hen mallards), 5 wood duck, 5 black duck, and 5 canvasbacks. The merganser daily bag limit is 10 in the aggregate and 16 for common snipe.

For geese, teal, coot, gallinule, sora, and Virginia rail, the Tribe requests a season from September 1 to December 31, 2018. The daily bag limit for geese is 20 in the aggregate. The daily bag limit for coot, teal, gallinule, sora, and Virginia rail is 20 in the aggregate.

For woodcock, the Tribe proposes a season between September 2 and December 1, 2018, with a daily bag and possession limit of 10 and 20, respectively.

For mourning dove, the Tribe proposes a season between September 1 and November 14, 2018, with a daily bag and possession limit of 10 and 20, respectively.

In 2016, the total estimated waterfowl hunters were 4,171. All Sault Ste. Marie Tribe members exercising hunting treaty rights within the 1836 Ceded Territory are required to submit annual harvest reports including date of harvest, number and species harvested, and location of harvest. Hunting hours would be from one-half hour before sunrise to one-half hour after sunset. All other regulations in 50 CFR part 20 apply, including the use of only nontoxic shot for hunting waterfowl.

The Service proposes to approve the request for 2018–19 special migratory bird hunting regulations for the Sault Ste. Marie Tribe of Chippewa Indians.

(t) Shoshone–Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Almost all of the Fort Hall Indian Reservation is tribally owned. The Tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by nontribal members on reservation lands owned by non-Indians. As a compromise, since 1985, we have established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the Tribes and provided for different season dates than in the remainder of the State. We agreed to the season dates because they would provide additional protection to mallards and pintails. The State of Idaho concurred with the zoning arrangement. We have no objection to the State's use of this zone again in the 2018–19 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a proposal for the 2018–19 hunting season, the Shoshone–Bannock Tribes request a continuous duck (including mergansers and coots) season, with the maximum number of days and the same daily bag and possession limits permitted for Pacific Flyway States under the final Federal frameworks. The Tribes propose a duck and coot season with, if the same number of hunting days is permitted as last year, an opening date of October 6, 2018, and a closing date of January 18, 2019. The Tribes anticipate harvest will be about 7,500 ducks.

The Tribes also request a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted in Idaho under Federal frameworks. The Tribes propose that, if the same number of hunting days is permitted as in previous years, the season would have an opening date of October 6, 2018, and a closing date of January 18, 2019. The Tribes anticipate harvest will be about 5,000 geese.

The Tribes request a common snipe season with the maximum number of days and the same daily bag and possession limits permitted in Idaho under Federal frameworks. The Tribes propose that, if the same number of hunting days is permitted as in previous years, the season would have an opening date of October 6, 2018, and a closing date of January 18, 2019.

Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone–Bannock Tribes also apply on the reservation.

We note that the requested regulations are nearly identical to those of last year, and we propose to approve them for the 2018–19 hunting season if the seasons' dates fall within the final Federal flyway frameworks (applies to nontribal hunters only).

(t) Skokomish Tribe, Shelton, Washington (Tribal Members Only)

Since 1996, the Service and the Point No Point Treaty Tribes, of which the Skokomish Tribe was one, have cooperated to establish special regulations for migratory bird hunting. The Tribes have been acting independently since 2005. The Tribe has a reservation on the Olympic Peninsula in Washington State and is a successor to the signatories of the Treaty of Point No Point of 1855.

The Skokomish Tribe requests a duck and coot season from September 16, 2018, to February 28, 2019. The daily bag limit is seven ducks, including no more than two hen mallards, one pintail, one canvasback, and two redheads. The daily bag and possession limit on harlequin duck is one per season. The coot daily bag limit is 25. The possession limit is twice the daily bag limit, except as noted above.

For geese, the Tribe requests a season from September 16, 2018, to February 28, 2019. The daily bag limit is four, including no more than three light geese. The season on Aleutian Canada geese is closed. For brant, the Tribe proposes a season from November 1, 2018, to February 15, 2019, with a daily bag limit of two. The possession limit is twice the daily bag limit.

For mourning doves, band-tailed pigeon, and snipe, the Tribe requests a season from September 16, 2018, to February 28, 2019, with a daily bag limit of 10, 2, and 8, respectively. The possession limit is twice the daily bag limit.

All Tribal hunters authorized to hunt migratory birds are required to obtain a tribal hunting permit from the Skokomish Tribe pursuant to tribal law. Hunting hours would be from one-half hour before sunrise to sunset. Only steel, tungsten-iron, tungsten-polymer, tungsten-matrix, and tin shot are allowed for hunting waterfowl. It is unlawful to use or possess lead shot while hunting waterfowl.

The Tribe anticipates harvest to be fewer than 150 birds. The Skokomish Public Safety Office enforcement officers have the authority to enforce these migratory bird hunting regulations.

We propose to approve the Skokomish Tribe's 2018–19 migratory bird hunting season.

(u) Spokane Tribe of Indians, Spokane Indian Reservation, Wellpinit, Washington (Tribal Members Only)

The Spokane Tribe of Indians wishes to establish waterfowl seasons on their reservation for its membership to access as an additional resource. An established waterfowl season on the reservation will allow access to a resource for members to continue practicing a subsistence lifestyle.

The Spokane Indian Reservation is located in northeastern Washington State. The reservation comprises approximately 157,000 acres. The

boundaries of the Reservation are the Columbia River to the west, the Spokane River to the south (now Lake Roosevelt), Tshimikn Creek to the east, and the 48th Parallel as the north boundary. Tribal membership comprises approximately 2,300 enrolled Spokane Tribal Members.

These proposed regulations would allow Tribal Members, spouses of Spokane Tribal Members, and first-generation descendants of a Spokane Tribal Member with a tribal permit and Federal Migratory Bird Hunting and Conservation Stamp an opportunity to utilize the reservation and ceded lands for waterfowl hunting. These regulations would also benefit tribal membership through access to this resource throughout Spokane Tribal ceded lands in eastern Washington. By Spokane Tribal Referendum, spouses of Spokane Tribal Members and children of Spokane Tribal Members not enrolled are allowed to harvest game animals within the Spokane Indian Reservation with the issuance of hunting permits.

The Tribe requests to establish duck seasons that would run from September 2, 2018, through January 31, 2019. The tribe is requesting the daily bag limit for ducks to be consistent with final Federal frameworks. The possession limit is twice the daily bag limit.

The Tribe proposes a season on geese starting September 2, 2018, and ending on January 31, 2019. The tribe is requesting the daily bag limit for geese to be consistent with final Federal frameworks. The possession limit is twice the daily bag limit.

Based on the quantity of requests the Spokane Tribe of Indians has received, the tribe anticipates harvest levels for the 2018–19 season for both ducks and geese to be fewer than 100 total birds, with goose harvest at fewer than 50. Hunter success will be monitored through mandatory harvest reports returned within 30 days of the season closure.

We propose to approve the Spokane Tribe's requested 2018–19 special migratory bird hunting regulations.

(v) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

The Squaxin Island Tribe of Washington and the Service have cooperated since 1995, to establish special tribal migratory bird hunting regulations. These special regulations apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

For the 2018–19 season, we have yet to hear from the Squaxin Island Tribe. The Tribe usually requests to establish duck and coot seasons that would run from September 1, 2018, through January 15, 2019. The daily bag limit for ducks would be five per day and could include only one canvasback. The season on harlequin ducks is closed. For coots, the daily bag limit is 25. For snipe, the Tribe usually proposes that the season start on September 15, 2018, and end on January 15, 2019. The daily bag limit for snipe would be eight. For band-tailed pigeon, the Tribe usually proposes that the season start on September 1 and end on December 31, 2018. The daily bag limit would be five. The possession limit would be twice the daily bag limit.

The Tribe usually proposes a season on geese starting September 15, 2018, and ending on January 15, 2019. The daily bag limit for geese would be four, including no more than two snow geese. The season on Aleutian and cackling Canada geese would be closed. For brant, the Tribe usually proposes that the season start on September 1 and end on December 31, 2018. The daily bag limit for brant would be two. The possession limit would be twice the daily bag limit.

We propose to approve the Tribe's 2018–19 special migratory bird hunting regulations, upon receipt of their proposal.

(w) Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only)

The Stillaguamish Tribe of Indians and the Service have cooperated to establish special regulations for migratory game birds since 2001. For the 2018–19 season, the Tribe requests regulations to hunt all open and unclaimed lands under the Treaty of Point Elliott of January 22, 1855, including their main hunting grounds around Camano Island, Skagit Flats, and Port Susan to the border of the Tulalip Tribes Reservation. Ceded lands are located in Whatcom, Skagit, Snohomish, and Kings Counties, and a portion of Pierce County, Washington. The Stillaguamish Tribe of Indians is a federally recognized Tribe and reserves the Treaty Right to hunt (*U.S.* v. *Washington*).

The Tribe proposes their duck (including mergansers and coot) and goose seasons run from October 1, 2018, to March 10, 2019. The daily bag limit on ducks (including sea ducks and mergansers) is 10. The daily bag limit for coot is 25. For geese, the daily bag limit is six. The season on brant is closed. Possession limits are totals of these three daily bag limits.

The Tribe proposes the snipe seasons run from October 1, 2018, to January 31, 2019. The daily bag limit for snipe is 10. Possession limits are three times the daily bag limit.

Harvest is regulated by a punch card system. Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal law enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

The Tribe anticipates a total harvest of 200 ducks, 100 geese, 50 mergansers, 100 coots, and 100 snipe. Anticipated harvest needs include subsistence and ceremonial needs. Certain species may be closed to hunting for conservation purposes, and consideration for the needs of certain species will be addressed.

The Service proposes to approve the Stillaguamish Tribe's request for 2018–19 special migratory bird hunting regulations.

(x) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

In 1996, the Service and the Swinomish Indian Tribal Community began cooperating to establish special regulations for migratory bird hunting. The Swinomish Indian Tribal Community is a federally recognized Indian Tribe consisting of the Swinomish, Lower Skagit, Samish, and Kikialous. The Swinomish Reservation was established by the Treaty of Point Elliott of January 22, 1855, and lies in the Puget Sound area north of Seattle, Washington.

For the 2018–19 season, the Tribal Community requests to establish a migratory bird hunting season on all areas that are open and unclaimed and consistent with the meaning of the treaty. The Tribe proposes their duck (including mergansers and coot) and goose seasons run from September 1, 2018, to March 9, 2019. The daily bag limit on ducks is 20. The daily bag limit for coot is 25. For geese, the daily bag limit is 10. The season on brant runs from September 1, 2018, to March 9, 2019. The daily bag limit is 5.

The Tribe proposes the snipe season run from September 1, 2018, to March 9, 2019. The daily bag limit for snipe is 15. The Tribe proposes the mourning dove season run from September 1, 2018, to March 9, 2019. The daily bag limit for mourning dove is 15. The Tribe proposes the band-tailed pigeon season run from September 1, 2018, to March 9, 2019. The daily bag limit for band-

tailed pigeon is three. The Swinomish Indian Tribal Community requests to have no possession limits.

The Community anticipates that the regulations will result in the harvest of approximately 600 ducks and 200 geese. The Swinomish utilize a report card and permit system to monitor harvest and will implement steps to limit harvest where conservation is needed. All tribal regulations will be enforced by tribal fish and game officers.

We propose to approve these 2018–19 special migratory bird hunting regulations.

(y) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only)

The Tulalip Tribes are the successors in interest to the Tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation just north of the City of Everett in Snohomish County, Washington. The Tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to nonmember hunting unless opened by Tulalip Tribal regulations.

For ducks, mergansers, coot, and snipe, the Tribe proposes seasons for tribal members from September 1, 2018, through February 28, 2019. Daily bag and possession limits would be 15 and 30 ducks, respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established in accordance with final Federal frameworks. For coot, daily bag and possession limits are 25 and 50, respectively, and for snipe 8 and 16, respectively. Ceremonial hunting may be authorized by the Department of Natural Resources at any time upon application of a qualified tribal member. Such a hunt must have a bag limit designed to limit harvest only to those birds necessary to provide for the ceremony.

For geese, tribal members propose a season from September 1, 2018, through February 28, 2019. The goose daily bag and possession limits would be 10 and 20, respectively, except that the bag limits for brant, cackling Canada geese, and dusky Canada geese would be those established in accordance with final Federal frameworks.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the Tribe. Each nontribal hunter 16 years of age and older hunting pursuant to Tulalip Tribes' Ordinance No. 67 must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Each hunter must validate stamps by signing across the face.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, harvest information indicates a total take by tribal and nontribal hunters of fewer than 1,000 ducks and 500 geese annually.

We propose to approve the Tulalip Tribe's request for 2018–19 special migratory bird hunting regulations.

(z) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

The Upper Skagit Indian Tribe and the Service have cooperated to establish special regulations for migratory game birds since 2001. The Tribe has jurisdiction over lands within Skagit, Island, and Whatcom Counties, Washington. The Tribe issues tribal hunters a harvest report card that will be shared with the State of Washington.

For the 2018–19 season, the Tribe requests a duck season starting October 1, 2018, and ending February 28, 2019. The Tribe proposes a daily bag limit of 15 with a possession limit of 20. The Tribe requests a coot season starting October 1, 2018, and ending February 15, 2019. The coot daily bag limit is 20 with a possession limit of 30.

The Tribe proposes a goose season from October 1, 2018, to February 28, 2019, with a daily bag limit of 7 geese and a possession limit of 10. For brant, the Tribe proposes a season from November 1 to November 10, 2018, with a daily bag and possession limit of 2.

The Tribe proposes a mourning dove season between September 1 and December 31, 2018, with a daily bag limit of 12 and possession limit of 15.

The anticipated migratory bird harvest under this proposal would be 100 ducks, 5 geese, 2 brant, and 10 coots. Tribal members must have the tribal identification and tribal harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be 15 minutes before official sunrise to 15 minutes after official sunset.

We propose to approve the Tribe's 2018–19 special migratory bird hunting regulations.

(aa) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

The Wampanoag Tribe of Gay Head is a federally recognized Tribe located on the island of Martha's Vineyard in Massachusetts. The Tribe has approximately 560 acres of land, which it manages for wildlife through its natural resources department. The Tribe also enforces its own wildlife laws and regulations through the natural resources department.

The Tribe proposes a duck season of October 8, 2018, through February 16, 2019. The Tribe proposes a daily bag limit of eight birds, which could include no more than four hen mallards, four mottled ducks, one fulvous whistling duck, four mergansers, three scaup, two hooded mergansers, three wood ducks, one canvasback, two redheads, two pintail, and four of all other species not listed. The season for harlequin ducks is closed. The Tribe proposes a teal (green-winged and blue) season of October 8, 2018, through February 16, 2019. A daily bag limit of 10 teal would be in addition to the daily bag limit for ducks.

For sea ducks, the Tribe proposes a season between October 1, 2018, and February 16, 2019, with a daily bag limit of seven, which could include no more than one hen eider and four of any one species unless otherwise noted above.

For Canada geese, the Tribe requests a season between September 3 and September 15, 2018, and between October 22, 2018, and February 16, 2019, with a daily bag limit of eight Canada geese. For snow geese, the tribe requests a season between September 3 and September 13, 2018, and between November 19, 2018, and February 16, 2019, with a daily bag limit of 15 snow geese.

For woodcock, the Tribe proposes a season between October 8 and November 24, 2018, with a daily bag limit of three. For sora and Virginia rails, the Tribe usually requests a season of September 3, 2018, through November 3, 2018, with a daily bag limit of 5 sora and 10 Virginia rails. For snipe, the Tribe usually requests a season of September 3, 2018, through December 8, 2018, with a daily bag limit of eight.

Prior to 2012, the Tribe had 22 registered tribal hunters and estimates harvest to be no more than 15 geese, 25 mallards, 25 teal, 50 black ducks, and 50 of all other species combined. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20. The Tribe requires hunters

to register with the Harvest Information Program.

We propose to approve the Tribe's 2018–19 special migratory bird hunting regulations.

(bb) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only)

The White Earth Band of Ojibwe is a federally recognized tribe located in northwest Minnesota and encompasses all of Mahnomen County and parts of Becker and Clearwater Counties. The reservation employs conservation officers to enforce migratory bird regulations. The Tribe and the Service first cooperated to establish special tribal regulations in 1999.

For the 2018–19 migratory bird hunting season, the White Earth Band of Ojibwe requests a duck season to start September 8 and end December 16, 2018. For ducks, they request a daily bag limit of 10, including no more than 2 hen mallards, 2 pintail, and 2 canvasback. For mergansers, the Tribe proposes the season to start September 8 and end December 16, 2018. The merganser daily bag limit would be five, with no more than two hooded mergansers. For geese, the Tribe proposes an early season from September 1 through September 21, 2018, and a late season from September 22 through December 16, 2018. The early season daily bag limit is 10 geese, and the late season daily bag limit is 5 geese.

For coots, the Tribe proposes a September 1 through November 30, 2018, season with daily bag limits of 20 coots. For snipe, woodcock, rail, and mourning dove, the Tribe proposes a September 1 through November 30, 2018, season with daily bag limits of 10, 10, 25, and 25 respectively. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required.

Based on past harvest surveys, the Tribe anticipates harvest of 1,000 to 2,000 Canada geese and 1,000 to 1,500 ducks. The White Earth Reservation Tribal Council employs four full-time conservation officers to enforce migratory bird regulations.

We propose to approve the Tribe's 2018–19 special migratory bird hunting regulations.

(cc) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

The White Mountain Apache Tribe owns all reservation lands, and the Tribe has recognized full wildlife management authority.

The hunting zone for waterfowl is restricted and is described as: The length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3, will be open to waterfowl hunting during the 2018–19 season. The length of the Black River east of the Black River/Bonito Creek confluence is closed to waterfowl hunting. All other waters of the reservation would be closed to waterfowl hunting for the 2018–19 season.

We have yet to hear from the White Mountain Apache Tribe. For nontribal and tribal hunters, the Tribe usually proposes a continuous duck, coot, merganser, gallinule, and moorhen hunting season, with an opening date of October 14, 2018, and a closing date of January 28, 2019. The season on scaup would usually open November 4, 2018, and end January 28, 2019. The Tribe usually proposes a daily duck (including mergansers) bag limit of seven, which may include no more than two redheads, two pintail, three scaup (when open), seven mallards (including no more than two hen mallards), and two canvasback. The daily bag limit for coots, gallinules, and moorhens would be 25, singly or in the aggregate.

For geese, the Tribe usually proposes a season from October 14, 2018, through January 28, 2019. Hunting would be limited to Canada geese, and the daily bag limit would be three.

Season dates for band-tailed pigeons and mourning doves would usually start September 1 and end September 15, 2018, in Wildlife Management Unit 10 and all areas south of Y–70 and Y–10 in Wildlife Management Unit 7, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 10, respectively.

Possession limits for the above species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails, and snipe on the White Mountain Apache lands under this proposal.

A number of special regulations apply to tribal and nontribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

We plan to approve the White Mountain Apache Tribe's requested 2018–19 special migratory bird hunting regulations, upon receipt of their proposal.

Public Comments

The Department of the Interior's policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preamble of a final rule.

Required Determinations

Based on our most current data, we are affirming our required determinations made in the August 3 and October 3 proposed rules; for descriptions of our actions to ensure compliance with the following statutes

and Executive Orders, see our August 3, 2017, proposed rule (82 FR 36308):

- National Environmental Policy Act (NEPA) Consideration;
- Endangered Species Act Consideration;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act of 1995;
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, 13563, and 13771.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2018–19 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: May 14, 2018.

Susan Combs,

Senior Advisor to the Secretary, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2018–10949 Filed 5–22–18; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 83, No. 100

Wednesday, May 23, 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 and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—School Breakfast Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection which FNS employs to determine public participation in the School Breakfast Program.

DATES: Written comments must be received on or before July 23, 2018.

ADDRESSES: Comments may be sent to: Tim Vázquez, School Programs Branch, Policy and Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1206, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Tim Vázquez at 703–305–6294 or via email to *CNDINTERNET@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Tim Vázquez at 703–305–2590.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality; utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: 7 CFR part 220, School Breakfast Program.

OMB Number: 0584–0012.

Expiration Date: 10/31/2018.

Type of Request: Revision of a currently approved collection.

Abstract: Section 4 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1773) authorizes the School Breakfast Program (SBP) as a nutrition assistance program in schools, and requires that ''Breakfast served by schools participating in the School Breakfast Program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.'' This information collection is required to administer and operate this program in accordance with the NSLA (National School Lunch Act). The School Breakfast Program is administered at the State and school food authority (SFA) levels and operations include the submission of applications and agreements, submissions and payment of claims, and maintenance of records. The reporting and recordkeeping burden associated with this revision is summarized in the charts below. The difference in burden is due to adjustments, such as a decrease in the number of SFAs and an increase in the number of schools participating in the program. All the reporting and recordkeeping requirements associated with the SBP are currently approved by the Office of Management and Budget and are in force. This is a revision of the currently approved information collection.

Affected Public: (1) State agencies; (2) School Food Authorities (3) schools.

Estimated Number of Respondents: The total estimated number of respondents is 110,268 (56 SAs; 19,240 SFAs; 90,972 schools).

Estimated Number of Responses per Respondent: 10.017.

Estimated Total Annual Responses: 1,104,583.

Estimated Time per Response: 0.226043.

Estimated Annual Reporting Burden: 238,786.

Number of Recordkeepers: 110,268 (56 SAs; 19,240 SFAs; 90,972 schools).

Number of Records per Record Keeper: 295.137.

Estimated total Number of Records/ Response to Keep: 32,945,120.

Recordkeeping time per Response: 0.108837.

Total Estimated Recordkeeping Burden: 3,618,963.40.

Annual Recordkeeping and Reporting Burden: 3,857,749.

Current OMB Inventory for Part 220: 3,824,307.

Difference (change in burden with this renewal): 33,442.

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number respondent	Est. frequency of responses per respondent	Total annual responses	Estimated avg. number of hours per response	Estimated total hours
Reporting Burden					
State Agencies	56	36.3393	2035	0.2757	561
School Food Authorities	19,240	10.022270	192,828	0.99954	192,739
Schools	90,972	10	909,720	0.05	45,486

Respondent	Estimated number respondent	Est. frequency of responses per respondent	Total annual responses	Estimated avg. number of hours per response	Estimated total hours
Total Estimated Reporting Burden	110,268	10.017	1,104,583	0.226043	238,786
Recordkeeping:					
State agencies	56	50	2,800	0.17976	503
School Food Authorities	19,240	10	192,400	0.083	15,969.20
Schools	90,972	360	32, 749,920	0.110	3,602,491.20
Total Estimated Recordkeeping Burden	110,268	295.1368	32,945,120	0.108837	3,618,963.40
Total of Reporting and Recordkeeping:					
Reporting	110,268	10.017	1,104,583	0.226043	238,786
Recordkeeping	110,268	295.137	32,945,120	0.108837	3,618,963.40
Total			34,049,703		3,857,749

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2018–11073 Filed 5–22–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 180402338–8338–01]

RIN 0694–XC044

Reporting for Calendar Year 2017 on Offsets Agreements Related to Sales of Defense Articles or Defense Services to Foreign Countries or Foreign Firms

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

ACTION: Notice; annual reporting requirements.

SUMMARY: This notice is to remind the public that U.S. firms are required to report annually to the Department of Commerce (Commerce) information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually to Commerce information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative. This year, such reports must include relevant information from calendar year 2017 and must be submitted to Commerce no later than June 15, 2018.

ADDRESSES: Submit reports in both hard copy and electronically. Address the hard copy to ''Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Industry and Security (BIS), Room 3878, Washington, DC 20230''. Submit electronic copies to *OffsetReport@bis.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Ronald DeMarines, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: 202–482–3755; fax: 202–482–5650; email: *ronald.demarines@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 723(a)(1) of the Defense Production Act of 1950, as amended (DPA) (50 U.S.C. 4568 (2015)) requires the President to submit an annual report to Congress on the impact of offsets on the U.S. defense industrial base. Section 723(a)(2) directs the Secretary of Commerce (Secretary) to prepare the President's report and to develop and administer the regulations necessary to collect offsets data from U.S. defense exporters.

The authorities of the Secretary regarding offsets have been delegated to the Under Secretary of Commerce for Industry and Security. The regulations associated with offsets reporting are set forth in part 701 of title 15 of the Code of Federal Regulations (Offsets Regulations). Offsets are compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services, as defined by the Arms Export Control Act (22 U.S.C. 2778) and the International Traffic in Arms Regulations (22 CFR 120–130). Offsets are also applicable to certain items controlled on the Commerce Control list (CCL) and with an Export Control Classification Number (ECCN) including the numeral ''6'' as its third character. The CCL is found in Supplement No. 1 to part 774 of the Export Administration Regulations.

An example of an offset is as follows: A company that is selling a fleet of military aircraft to a foreign government may agree to offset the cost of the aircraft by providing training assistance to plant managers in the purchasing country. Although this distorts the true price of the aircraft, the foreign government may require this sort of extra compensation as a condition of awarding the contract to purchase the aircraft. As described in the Offsets Regulations, U.S. firms are required to report information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative.

Commerce's annual report to Congress includes an aggregated summary of the data reported by industry in accordance with the offsets regulation and the DPA (50 U.S.C. 4568 (2015)). As provided by section 723(c) of the DPA, BIS will not publicly disclose individual firm information it receives through offsets reporting unless the firm furnishing the information specifically authorizes public disclosure. The information collected is sorted and organized into an aggregate report of national offsets data, and therefore does not identify company-specific information.

To enable BIS to prepare the next annual offset report reflecting calendar year 2017 data, affected U.S. firms must submit required information on offsets agreements and offsets transactions from calendar year 2017 to BIS no later than June 15, 2018.

Dated: May 18, 2018.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2018–11074 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe From Mexico; Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that Productos Laminados de Monterrey S.A. de C.V. (Prolamsa) and Maquilacero, S.A. de C.V. (Maquilacero), producers/exporters of certain circular welded non-alloy steel pipe from Mexico, sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) November 1, 2015, through October 31, 2016.

DATES: Effective May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Erin Kearney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6312 or (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2017, Commerce published in the **Federal Register** the *Preliminary Results* of this administrative review.[1] In accordance with 19 CFR 351.309(c)(1)(ii), Commerce invited interested parties to comment on the *Preliminary Results.* On March 23, 2018, Maquilacero and Prolamsa each submitted case briefs.[2] On March 28, 2018, Wheatland Tube Company (the petitioner) submitted a rebuttal brief.[3]

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.[4] As a result, the revised deadline for the final results of this review was April 9, 2018. On March 8, 2018, Commerce extended the time limit for the final results, until May 18, 2018.[5]

These final results cover ten companies. Based on an analysis of the comments received, we have made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the ''Final Results of Review'' section, below.

This administrative review was conducted in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are circular welded non-alloy steel pipes and tubes. The merchandise covered by the order and subject to this review is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

A full description of the scope of the order is contained in the Issues and Decision Memorandum,[6] which is hereby adopted by this notice and incorporated herein by reference. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded, is attached to this notice as an appendix.

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes to Prolamsa's margin calculation. Additionally, we made certain changes to the assessment rates for both mandatory respondents. These changes are fully discussed in the Issues and Decision Memorandum.

Application of Adverse Facts Available

For these final results, we continue to find that Maquilacero withheld necessary information and significantly impeded the proceeding and, thus, failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we find that the application of adverse facts available, pursuant to section 776(a)–(b) of the Act, is warranted with respect to Maquilacero. For a full description of the methodology and rationale underlying our conclusions, *see* Issues and Decision Memorandum.

Final Determination of No Shipments

Lamina y Placa Comercial, S.A. de C.V. (Lamina y Placa), Pytco, S.A. de C.V. (Pytco), Regiomontana de Perfiles y Tubos S.A. de C.V. (Regiopytsa), Tuberia Nacional, S.A. de C.V. (TUNA), and Villacero reported that they made no sales of subject merchandise during the POR.[7] On April 28, 2017, we issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP) to confirm the claims of no shipments by Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA during the POR.[8] We received no information from CBP that contradicted Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA's claims of no shipments, and we received no comments from interested

[1] *See Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Preliminary Results of Review, Preliminary Determination of No Shipments, and Partial Rescission of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 57579 (December 6, 2017) (*Preliminary Results*).

[2] *See* Maquilacero Letter re: Certain Circular Welded Non-Alloy Steel Pipe and Tube from Mexico; Maquilacero S.A. de C.V.'s Case Brief, dated March 23, 2018 (Maquilacero's Case Brief); *see also* Prolamsa letter re: Circular Welded Non-Alloy Steel Pipe from Mexico: Case Brief, dated March 23, 2018 (Prolamsa's Case Brief).

[3] *See* Petitioner Letter re: Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Wheatland Rebuttal Brief, dated March 28, 2018 (Petitioner's Rebuttal Brief).

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[5] *See* Memorandum, ''Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,'' dated March 8, 2018.

[6] *See* Memorandum, ''Issues and Decisions Memorandum for the Final Results of the Antidumping Duty Administrative Review: Certain Circular Welded Non-Alloy Steel Pipe from Mexico; 2015–2016,'' dated concurrently with this notice (Issues and Decision Memorandum).

[7] *See* Lamina y Placa Letter re: Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of No Sales, dated January 25, 2017 (which includes TUNA); *see also* Villacero Letter re: Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Notice of No Sales, dated February 3, 2017; *see also* Regiopytsa Letter re: Circular Welded Non-Alloy Steel Pipe from Mexico: No Shipment Notification, dated February 13, 2017 (which includes Pytco).

[8] *See Preliminary Results.*

parties with respect to Commerce's preliminary determination of no shipments for Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA. Therefore, based on the claims of no shipments by Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA, and because the record contains no information to the contrary, we continue to determine for these final results that Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA made no shipments of subject merchandise during the POR.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

However, section 735(c)(5)(B) of the Act provides that, where all margins are zero, *de minimis,* or based on total facts available, Commerce may use ''any reasonable method'' for assigning a margin to non-selected respondents. One method contemplated by section 735(c)(5)(B) of the Act is ''averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.'' For these final results, we calculated a weighted-average dumping margin of zero percent for Prolamsa, and we determined Maquilacero's margin entirely on the basis of facts available (*i.e.,* 48.33 percent). Because we have no calculated rates that are not based entirely on facts available, zero, or *de minimis,* we have determined that a reasonable method for assigning a margin to non-selected respondents in this review is to average the weighted-average dumping margins calculated for the two mandatory respondents. The simple average of these rates is 24.17 percent, and this is the rate we assign to Abastecedora y Perfiles y Tubos, S.A. de C.V. (Abastecedora), Conduit, S.A. de C.V. (Conduit), and Ternium Mexico, S.A. de C.V. (Ternium).[9]

Final Results of Review

As a result of this review, we determine the following weighted-average dumping margins exist for the POR:

Exporter or producer	Weighted-average dumping margin (percent)
Maquilacero, S.A. de C.V	48.33
Productos Laminados de Monterrey S.A. de C.V	0.00
Abastecedora y Perfiles y Tubos, S.A. de C.V	24.17
Conduit, S.A. de C.V	24.17
Ternium Mexico, S.A. de C.V	24.17

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 41 days after the date of publication of these final results of review.

Commerce shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Because the weighted-average dumping margin of Prolamsa is zero, we will instruct CBP to liquidate entries covered by this review period without regard to antidumping duties. Commerce will instruct CBP to apply an *ad valorem* assessment rate of 48.33 percent to all entries of subject merchandise during the POR which were produced and/or exported by Maquilacero. Commerce will instruct CBP to apply an *ad valorem* assessment rate of 24.17 percent to all entries of subject merchandise during the POR which were produced and/or exported by Abastecedora, Conduit, or Ternium. Additionally, because Commerce determined that Lamina y Placa, Pytco, Regiopytsa, Villacero, and TUNA had no shipments of the subject merchandise, any suspended entries that entered under those companies' case numbers (*i.e.,* at those companies' rates) will be liquidated at the all-others rate effective during the period of review consistent with Commerce's practice.[10] We intend to issue assessment instructions directly to CBP 41 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 32.62 percent, the all-others rate established in the LTFV investigation.[11] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties

[9] *See, e.g., Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2010–2011,* 78 FR 22232 (April 15, 2013), and the accompanying Issues and Decision Memorandum at 12–15.

[10] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[11] *See Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Mexico,* 57 FR 42953 (September 17, 1992).

occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: May 17, 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

List of Topics Discussed in the Issues and Decisions Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issues
Comment 1: Use of Prolamsa's Revised Databases
Comment 2: Revision of POR in Prolamsa's Margin Program
Comment 3: Proper CONNUMs to Use in Prolamsa's Margin Program
Comment 4: Prolamsa's Warehousing Expenses
Comment 5: AFA Rate for Maquilacero
Comment 6: Maquilacero Liquidation Instructions
V. Recommendation

[FR Doc. 2018–11031 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–072]

Sodium Gluconate, Gluconic Acid and Derivative Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of sodium gluconate, gluconic acid and derivative products (GNA products) from the People's Republic of China (China). The period of investigation is January 1, 2016, through December 31, 2016. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Galantucci or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2923 or 202–482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 4, 2018.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018.[2] On February 7, 2018, Commerce published its postponement of the deadline for the preliminary determination of the investigation for the full 130 days permitted under section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) until May 2, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping (AD) and Countervailing Duty (CVD) Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are sodium gluconate, gluconic acid and derivative products from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of the signature date of that notice. We received several comments concerning the scope of the AD and CVD investigations of GNA products from China.

We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on July 2, 2018. We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, We preliminarily determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit on the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying our

[1] *See Sodium Gluconate, Gluconic Acid, and Derivative Products From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 499 (January 4, 2018) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. (Tolling Memorandum). All deadlines in this segment of the proceeding have been extended by 3 days.

[3] *See Sodium Gluconate, Gluconic Acid and Derivative Products From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 83 FR 5401 (February 7, 2018).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

preliminary conclusions, *see* the Preliminary Decision Memorandum.

We note that, in making these findings, we relied on facts otherwise available. Additionally, because we find that the mandatory respondents did not act to the best of their ability to respond to our requests for information, and therefore impeded this investigation, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[6]

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of GNA products from China, based on a request made by PMP Fermentation Products, Inc. (the petitioner).[7] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than September 17, 2018.[8]

Adverse Facts Available

In accordance with sections 776(a)(1), 776(a)(2), and 776(b) of the Act, we applied facts otherwise available with an adverse inference to assign countervailable subsidy rates to non-cooperative mandatory respondents Qingdao Dongxiao Enterprise Co., Ltd. (Qingdao Dongxiao), Shandong Fuyang Biotechnology Co. (Fuyang), Shandong Kaison Biochemical Co Ltd (Kaison), and Tongxiang Hongyu Chemical Co., Ltd. (Hongyu Chemical). Hongyu Chemical, Kaison and Qingdao Dongxiao did not respond to Commerce's request for necessary information, and therefore impeded this investigation. Accordingly, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.

With respect to Fuyang, we find that certain of Fuyang's submissions remain incomplete, or conflict with other record evidence. We find the use of facts available is appropriate because Fuyang did not provide Commerce with necessary information in the form and manner requested and otherwise impeded the proceeding. Furthermore, we find that Fuyang failed to act to the best of its ability in providing Commerce with the requested information, thereby warranting the application of an adverse inference. For further information, see ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.[9]

All-Others Rate

With respect to the all-others rate, section 705(c)(5)(A) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, Commerce may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, as noted above, the rates assigned to Fuyang, Hongyu Chemical, Kaison and Qingdao Dongxiao are based entirely on facts otherwise available, with an adverse inference, pursuant to section 776 of the Act. There is no other information on the record with which to determine an all-others rate. Accordingly, pursuant to section 705(c)(5)(A)(ii) of the Act, we are using ''any reasonable method'' to establish the all-others rate, and have established the all-others rate by applying the countervailable subsidy rates assigned to mandatory respondents Fuyang, Hongyu Chemical, Kaison and Qingdao Dongxiao.

Commerce summarizes its preliminary countervailable subsidy rates in the table below:

Producer/exporter	Subsidy rate (percent)
Qingdao Dongxiao Enterprise Co., Ltd	194.67
Shandong Fuyang Biotechnology Co	194.67
Shandong Kaison Biochemical Co Ltd	194.67
Tongxiang Hongyu Chemical Co., Ltd	194.67
All-Others	194.67

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of GNA products from China as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Public Comment

Interested parties may submit case and rebuttal briefs, as well as request a hearing. Case briefs may be submitted no later than 30 days after the publication of this preliminary determination in the **Federal Register**, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If Commerce's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

[6] *See* sections 776(a) and (b) of the Act.

[7] *See* Letter from the petitioner, ''Countervailing Duty Investigation of Sodium Gluconate, Gluconic Acid and Derivative Products From the People's Republic of China: PMP's Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Final Determination,'' dated April 12, 2018.

[8] *See Sodium Gluconate, Gluconic Acid, and Derivative Products From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation,* 83 FR 19050 (May 1, 2018).

[9] Section 782(i) of the Act requires Commerce to verify a respondent's data as part of an investigation. However, because we are preliminarily applying adverse facts available, pursuant to sections 776(a) and (b) of the Act, to each of the respondents, we do not intend to conduct verification in this investigation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 2, 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 scope of this investigation covers all grades of sodium gluconate, gluconic acid, liquid gluconate, and glucono delta lactone (GDL) (collectively, GNA products), regardless of physical form (including, but not limited to substrates; solutions; dry granular form or powders, regardless of particle size; or as a slurry). The scope also includes GNA products that have been blended or are in solution with other product(s) where the resulting mix contains 35 percent or more of sodium gluconate, gluconic acid, liquid gluconate, and/or GDL by dry weight.

Sodium gluconate has a molecular formula of $NaC_6H_{11}O_7$. Sodium gluconate has a Chemical Abstract Service (CAS) registry number of 527–07–1, and can also be called ''sodium salt of gluconic acid'' and/or sodium 2, 3, 4, 5, 6 pentahydroxyhexanoate. Gluconic acid has a molecular formula of $C_6H_{12}O_7$. Gluconic acid has a CAS registry number of 526–95–4, and can also be called 2, 3, 4, 5, 6 pentahydroxycaproic acid. Liquid gluconate is a blend consisting only of gluconic acid and sodium gluconate in an aqueous solution. Liquid gluconate has CAS registry numbers of 527–07–1, 526–95–4, and 7732–18–5, and can also be called 2, 3, 4, 5, 6-pentahydroxycaproic acid-hexanoate. GDL has a molecular formula of $C_6H_{10}O_6$. GDL has a CAS registry number of 90–80–2, and can also be called d-glucono-1,5-lactone.

The merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 2918.16.1000, 2918.16.5010, and 2932.20.5020. Merchandise covered by the scope may also enter under HTSUS subheadings 2918.16.5050, 3824.99.2890, and 3824.99.9295. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. New Subsidy Allegation
VI. Alignment
VII. Injury Test
VIII. Application of the CVD Law to Imports from China
IX. Attribution of Subsidies
X. Use of Facts Otherwise Available and Adverse Inferences
XI. Calculation of the All-Others Rate
XII. ITC Notification
XIII. Recommendation

[FR Doc. 2018–10566 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–922]

Raw Flexible Magnets From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) is rescinding its administrative review of raw flexible magnets from the People's Republic of China (China) based on the timely withdrawal of all requests for review, for the period of review (POR) September 1, 2016, through August 31, 2017.

DATES: Applicable May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett or Maliha Khan, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3609 and (202) 482–0895, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2017, Commerce published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on raw flexible magnets from China for the above POR.[1] On October 2, 2017, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce received a timely request from Qwik Picz Photo Booth, LLC (QPP) to conduct an administrative review.[2]

Pursuant to this request, and in accordance with 19 CFR 351.221(c)(1)(i), on November 13, 2017, Commerce published a notice of initiation of an administrative review of the antidumping duty order on raw flexible magnets from China.[3] This administrative review covers QPP's suppliers, Som International Limited and Wenzhou Haibao Printing Co., LTD, during the period September 1, 2016, through August 31, 2017. On January 16, 2018, QPP withdrew its request for an administrative review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation of the requested review. QPP withdrew its review request with respect to Som International Limited and Wenzhou Haibao Printing Co., LTD, before the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of raw flexible magnets from China. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice also serves as a final reminder to importers for whom this review is being rescinded of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent

---

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 41595 (September 1, 2017).

[2] *See* Letter from QPP, ''Raw Flexible Magnets from the PRC; A–570–922; Request for Review by Qwik Picz Photo Booth, LLC,'' dated October 2, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

[4] *See* Letter from QPP, ''Raw Flexible Magnets from the PRC; A–570–922; Withdraw Request for Review by Qwik Picz Photo Booth, LLC,'' dated January 16, 2018.

assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: May 9, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–10564 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–029, C–570–030]

Certain Cold-Rolled Steel Flat Products From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from China.

DATES: Applicable May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1121 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2017, Commerce published the *Preliminary Determination* [1] of circumvention of the *CRS Orders.*[2] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[3] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Orders

The products covered by these orders are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. For a complete description of the scope of the orders, *see* the Issues and Decision Memorandum.

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CRS produced in Vietnam using HRS substrate manufactured in China and subsequently exported from Vietnam to the United States (inquiry merchandise). These rulings apply to all shipments of inquiry merchandise on or after the date of the initiation of these inquiries. Importers and exporters of CRS produced in Vietnam using HRS manufactured in Vietnam or third countries must certify that the HRS processed into CRS in Vietnam did not originate in China, as provided for in the certifications attached to this **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties.

Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam and China [4] are non-market economy countries, within the meaning of section 771(18) of the Act, Commerce calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. Because Vietnam and China are non-market economy countries, within the meaning of section 771(18) of the Act, in the *Preliminary Determination* Commerce calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. *See* Preliminary Decision Memorandum for a full description of the methodology. We have continued to apply this methodology for our final determination. For further information, *see* Comment 6 of the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

Based on our analysis of the comments received and our findings at verification, we made certain changes to our value of processing calculation

[1] *See Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 82 FR 58178 (December 11, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See Certain Cold-Rolled Steel Flat Products from Japan and the People's Republic of China: Antidumping Duty Orders,* 81 FR 45955 (July 14, 2016) (*CRS AD Order*), and *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Countervailing Duty Order,* 81 FR 45960 (July 14, 2016) (*CRS CVD Order*) (collectively, *CRS Orders*).

[3] *See* Memorandum, ''Issues and Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Cold-Rolled Steel Flat Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *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); *see also Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 81 FR 24797 (October 14, 2016) (*unchanged in Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review;* 2014–2015, 82 FR 18611 (April 20, 2017)).

since the *Preliminary Determination.* These changes are discussed in the Issues and Decision Memorandum.

Final Affirmative Determination of Circumvention

We determine that CRS produced in Vietnam from HRS substrate manufactured in China is circumventing the *CRS Orders*. We, therefore, find it appropriate to determine that this merchandise falls within the *CRS Orders* and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CRS from Vietnam produced using HRS substrate manufactured in China.

Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *CRS Orders* by exports to the United States of CRS produced in Vietnam using Chinese-origin HRS substrate. This circumvention finding applies to CRS produced by any Vietnamese company using Chinese-origin HRS substrate. In accordance with 19 CFR 351.225(l)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam using Chinese-origin HRS substrate that were entered, or withdrawn from warehouse, for consumption on or after November 4, 2016, the date of initiation of these anti-circumvention inquiries.

The suspension of liquidation instructions will remain in effect until further notice. Commerce will instruct CBP to require AD cash deposits equal to the rate established for the China-wide entity (199.76 percent) and CVD cash deposits equal to the rate established for China all-others rate (256.44 percent). In the underlying AD and CVD investigations, there were no cooperating respondents and, accordingly, all producers/exporters, as appropriate, of subject merchandise received the same AD rate of 199.76 and CVD rate of 256.44.

CRS produced in Vietnam using HRS substrate that is not of Chinese-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. If an importer imports CRS from Vietnam and it claims that the CRS was not produced using HRS substrate manufactured in China, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CRS produced in Vietnam using non-Chinese origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CRS must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of an Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CRS produced using non-Chinese-origin HRS substrate.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction or APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: May 16, 2018.

Gary Taverman,

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

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Orders
IV. Scope of the Anti–Circumvention Inquiries
V. Statutory Framework
VI. Statutory Analysis
VII. Changes Since the Preliminary Determination
VIII. Discussion of the Issues
Comment 1: Section 781(b) Anti-circumvention Inquiry When Commerce Has Made Previous Substantial Transformation Findings
Comment 2: The Scopes of the Orders Do Not Cover Further Processed Merchandise in a Third Country
Comment 3: Country-Wide Determination is Not Justified
Comment 4: Certification Requirements
Comment 5: Statutory Criteria Benchmarked to HRS Production in China
Comment 6: Assembly or Completion in Vietnam and Value of Processing Performed in Vietnam (Including Use of SV Methodology)
Comment 7: ''Pattern of Trade and Sourcing'' and ''Increased Imports'' Findings
Comment 8: Energy
Comment 9: Application of AFA for VNSteel PFS
IX. Recommendation

Appendix II—Certification Requirements

If an importer imports certain cold rolled steel products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced using hot-rolled steel substrate (substrate) manufactured in the People's Republic of China (China), the importer is required to complete and maintain the importer certification attached as Appendix III. The importer is further required to maintain a copy of the exporter certification, discussed below. The importer certification must be completed, signed, and dated at the time of filing of the entry summary for the relevant importation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification. The exporter certification must be completed, signed, and dated before or at the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the merchandise manufactured in Vietnam to the United States, which is not necessarily the producer of the product.

The importer and third-country exporter are also required to maintain sufficient documentation (as indicated in the certifications) supporting their certifications.

The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to the U.S. Department of Commerce (Commerce) and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the China CRS orders A–570–029 and C–570–030, all unliquidated entries for which these

requirements were not met and require the importer to post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce. Entries suspended under A–570–029 and C–570–030 will be liquidated pursuant to applicable administrative reviews of the China orders or through the automatic liquidation process.

For CRS produced in Vietnam using Chinese hot-rolled substrate, Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE): A–552–996 and C–552–997.

For entries suspended pursuant to the *Preliminary Determination* of these anti-circumvention inquiries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, which are claimed to be produced using non-Chinese HRS substrate, Commerce permitted importer and exporter certifications to be completed for a limited period following the *Preliminary Determination*.[5] Specifically, Commerce required completion of the importer and exporter certifications within 45 days of publication of the *Preliminary Determination* **Federal Register** notice. Likewise, for such merchandise, the exporter was required to provide the importer a copy of the exporter certification within 45 days of the *Preliminary Determination* publication.

For unliquidated entries (and entries for which liquidation has not become final) of merchandise entered as type 01 entries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, produced from Chinese substrate, importers should file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding possible conversion of such entries from type 1 to type 3 entries and report those type 3 entries using the third-country case numbers A–552–996 and C–552–997. Accordingly, the importer also should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

For merchandise (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, for which certifications are required, importers and exporters each had the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.[6] The importer certifications, and copies of the exporter certifications, should be maintained by the importer and provided to CBP or Commerce upon request by the respective agency.

Appendix III—Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY};
- This certification pertains to {INSERT ENTRY NUMBER(S), ENTRY LINE NUMBER(S), AND PRODUCT CODE(S) REFERENCED ON ENTRY SUMMARY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the cold-rolled steel products produced in the Socialist Republic of Vietnam (Vietnam) that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. ''Direct personal knowledge'' for purposes of this certification refers to facts in records maintained by the importing company in the normal course of its business. The importer should have ''direct personal knowledge'' of the importation of the product (*e.g.,* the name of the exporter) in its records;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' for purposes of this certification includes facts obtained from another party (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of the substrate used to produce the imported products);
- The cold-rolled steel products produced in Vietnam that are covered by this certification do not contain hot-rolled steel substrate produced in the People's Republic of China;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of the Exporter's Certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain and provide a copy of the Exporter's Certification and supporting records, upon request, to CBP and/or the Department;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - ○ suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met, and
  - ○ the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at the time of filing the entry summary for the relevant importation;
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

Appendix IV—Exporter Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- This certification pertains to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS AND PRODUCT CODE(S) REFERENCED ON INVOICE};
- I have direct personal knowledge of the facts regarding the production and exportation of the cold-rolled steel products from the Socialist Republic of Vietnam (Vietnam) that shipped pursuant to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS} and are covered by this certification. ''Direct personal knowledge'' for purposes of this certification refers to facts in records maintained by the exporting company in the normal course of its business. For example, an exporter should have ''direct personal knowledge'' of the producer's identity and location.
- The cold-rolled steel products produced in Vietnam that are covered by this certification do not contain hot-rolled steel substrate produced in the People's Republic of China.
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this

[5] Commerce Memorandum, ''Clarification of Certification Requirements Pursuant to Preliminary Affirmative Anti-circumvention Rulings and Extension of 30-Day Deadline for Pre-Preliminary Determination Shipments,'' dated January 9, 2018, at 2–3.

[6] Commerce Memorandum, ''Clarification of Certification Requirements Pursuant to Preliminary Affirmative Anti-circumvention Rulings and Extension of 30-Day Deadline for Pre-Preliminary Determination Shipments,'' dated January 9, 2018, at 2–3.

certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer before or at the time of shipment;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met, and

○ the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates as determined by the Department;

• This certification was completed before or at the time of shipment of the relevant entries;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

[FR Doc. 2018–11029 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Final Results of Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) has completed the administrative review of the antidumping duty order on polyethylene retail carrier bags from Malaysia for the period of review (POR) August 1, 2016, through July 31, 2017. We continue to find that Euro SME Sdn Bhd (Euro SME) did not have shipments of subject merchandise during the POR.

DATES: Applicable May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Alex Rosen or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7814 or (202) 482–5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 2018, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results.*[2] We received a case brief from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corp. (the petitioners).[3] No other parties submitted comments or rebuttal comments.

Scope of the Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this antidumping duty order excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive.

Comments Received

On April 11, 2018, the petitioners submitted a case brief which notes only that the 2.40 percent rate listed for all-other producers or exporters in the *Preliminary Results* notice is incorrect, and that the final results should reflect the 84.94 percent all-others rate established in the investigation of this order.[4] Because this issue is addressed *infra,* and no further issues were briefed in the instant proceeding, no decision memorandum accompanies this **Federal Register** notice.

Changes Since the Preliminary Results

The *Preliminary Results* stated that, ''effective upon publication of the final results of this administrative review . . . the cash deposit rate for all other producers or exporters is 2.40 percent.''[5] The 2.40 percent rate for all-other producers or exporters, as stated in the *Preliminary Results* notice, was a typographical error. Commerce agrees with the petitioners that it determined an all-others rate of 84.94 percent in the *Investigation,*[6] that this all-others rate has not changed.[7] Thus, the correct rate applicable to all-other producers or exporters in this review continues to be 84.94 percent. Accordingly, we are correcting the all-others rate listed in the ''Cash Deposit Requirements'' section below to accurately reflect the

[1] *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 11959 (March 19, 2018) (*Preliminary Results*).

[2] *Id.* at 11960.

[3] *See* letter from the petitioners, ''Polyethylene Retail Carrier Bags from Malaysia: Case Brief,'' dated April 11, 2018 (Petitioners' Case Brief).

[4] *See* Petitioners' Case Brief at 1, citing to *Preliminary Results,* 83 FR at 11959–60 and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China,* 69 FR 34128, 34129 (June 18, 2004) (*Investigation*).

[5] *See Preliminary Results,* 83 FR at 11959–60.

[6] *See Investigation,* 69 FR at 34129.

[7] *See, e.g., Polyethylene Retail Carrier Bags from Malaysia: Final Results of the Antidumping Duty Administrative Review; 2014–2015,* 81 FR 75378, 75379 (October 31, 2016).

84.94 percent rate calculated in the *Investigation*.[8]

Final Determination of No Shipments

We found in the *Preliminary Results* that Euro SME had no shipments of subject merchandise during the POR,[9] and no party commented on this preliminary finding. As a result, this finding has not changed.[10] For further details of the issues addressed in this proceeding, *see* the *Preliminary Results*.[11]

Assessment Rates

Commerce determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, where applicable, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

Regarding Euro SME, the exporter under review, which we determined had no shipments of the subject merchandise during the POR, for any suspended entries of subject merchandise for which Euro SME did not know its merchandise was destined for the United States, we will instruct CBP to liquidate these entries at the all-others rate if there is no rate for the intermediate company involved in the transaction.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For Euro SME, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to Euro SME in the most recently completed review of the company; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is a firm not covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters is 84.94 percent.[13] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: May 17, 2018.

Gary Taverman,

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

[FR Doc. 2018–11030 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

[8] *Id.*

[9] *See Preliminary Results,* 83 FR at 11959.

[10] *Id.*

[11] *Id.*

[12] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[13] *See Investigation,* 69 FR at 34129.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–026, C–570–027]

Certain Corrosion-Resistant Steel Products From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) or cold-rolled steel (CRS) flat products manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from China.

DATES: Applicable May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0196 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2017, Commerce published the *Preliminary Determination*[1] of circumvention of the *CORE Orders*.[2] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision

[1] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 82 FR 58170 (December 11, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016), and *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order,* 81 FR 48387 (July 25, 2016) (collectively, *CORE Orders*).

Memorandum.[3] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Issues and Decision Memorandum.

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam using HRS or CRS substrate manufactured in China and subsequently exported from Vietnam to the United States (inquiry merchandise). These rulings apply to all shipments of inquiry merchandise on or after the date of the initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in China, as provided for in the certifications attached to this **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties.

Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam and China[4] are non-market economy countries, within the meaning of section 771(18) of the Act, Commerce calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. Because Vietnam and China are non-market economy countries, within the meaning of section 771(18) of the Act, in the *Preliminary Determination* Commerce calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. *See* Preliminary Decision Memorandum for a full description of the methodology. We have continued to apply this methodology for our final determination. For further information, *see* Comment 6 of the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

Based on our analysis of the comments received and our findings at verification, we made certain changes to our value of processing calculation since the *Preliminary Determination.* These changes are discussed in the Issues and Decision Memorandum.

Final Affirmative Determination of Circumvention

We determine that CORE produced in Vietnam from HRS or CRS substrate manufactured in China is circumventing the *CORE Orders.* We, therefore, find it appropriate to determine that this merchandise falls within the *CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CORE from Vietnam produced using HRS or CRS substrate manufactured in China.

Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *CORE Orders* by exports to the United States of CORE produced in Vietnam using Chinese-origin HRS or CRS substrate. This circumvention finding applies to CORE produced by any Vietnamese company using Chinese-origin HRS or CRS substrate. In accordance with 19 CFR 351.225(l)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam using Chinese-origin HRS or CRS substrate that were entered, or withdrawn from warehouse, for consumption on or after November 4, 2016, the date of initiation of these anti-circumvention inquiries.

The suspension of liquidation instructions will remain in effect until further notice. Commerce will instruct CBP to require AD cash deposits equal to the rate established for the China-wide entity (199.43 percent) and CVD cash deposits equal to the rate established for the China all-others rate (39.05 percent). In the underlying AD and CVD investigations, Commerce relied on the rates calculated for the sole cooperative respondent in each investigation to determine the China-wide rate of 199.43 percent in the AD investigation and the all-others rate of 39.05 percent in the CVD investigation. The rates are thus based on the cost and sales data and subsidy benefits of Chinese producers.

CORE produced in Vietnam using HRS or CRS substrate that is not of Chinese-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. If an importer imports CORE from Vietnam and it claims that the CORE was not produced using HRS or CRS substrate manufactured in China, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced in Vietnam using non-Chinese-origin HRS or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer

[3] *See* Memorandum, ''Issues and Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Corrosion-Resistant Steel Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *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); *see also Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 81 FR 24797 (October 14, 2016) (*unchanged in Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review;* 2014–2015, 82 FR 18611 (April 20, 2017)).

Certification, the importer must also maintain a copy of an Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CORE produced using non-Chinese-origin HRS or CRS substrate.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction or APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: May 16, 2018.

Gary Taverman,

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

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Orders
IV. Scope of the Anti-Circumvention Inquiries
V. Changes Since the Preliminary Determination
VI. Statutory Framework
VII. Statutory Analysis
VIII. Discussion of the Issues
Comment 1: Section 781(B) Anti-Circumvention Inquiry When Commerce Has Made Previous Substantial Transformation Findings
Comment 2: The Scopes of the Orders Do Not Cover Merchandise Further Processed in a Third Country
Comment 3: A Country-Wide Determination Is Not Justified
Comment 4: Certification Requirements
Comment 5: Statutory Criteria Benchmarked to HRS or CRS Production in China
Comment 6: Assembly or Completion in Vietnam and Value of Processing Performed in Vietnam (Including Use of SV Methodology)
Comment 7: ''Pattern of Trade and Sourcing'' and ''Increased Imports'' Findings
Comment 8: Energy
Comment 9: Unit Values for Hot-Rolled and Cold-Rolled Steel Inputs
Comment 10: TDA's Labor
Comment 11: TDA's Byproducts
Comment 12: Affiliation With Suppliers
IX. Recommendation

Appendix II

Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced using hot-rolled or cold-rolled steel substrate (substrate) manufactured in the People's Republic of China (China), the importer is required to complete and maintain the importer certification attached as Appendix III. The importer is further required to maintain a copy of the exporter certification, discussed below. The importer certification must be completed, signed, and dated at the time of filing of the entry summary for the relevant importation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification. The exporter certification must be completed, signed, and dated before or at the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the merchandise manufactured in Vietnam to the United States, which is not necessarily the producer of the product.

The importer and third-country exporter are also required to maintain sufficient documentation (as indicated in the certifications) supporting their certifications.

The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to the U.S. Department of Commerce (Commerce) and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the China CORE orders A–570–026 and C–570–027, all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce. Entries suspended under A–570–026 and C–570–027 will be liquidated pursuant to applicable administrative reviews of the China orders or through the automatic liquidation process.

For CORE produced in Vietnam using Chinese hot-rolled or cold-rolled substrate, Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE): A–552–994 and C–552–995.

For entries suspended pursuant to the *Preliminary Determination* of these anti-circumvention inquiries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, which are claimed to be produced using non-Chinese HRS or CRS substrate, Commerce permitted importer and exporter certifications to be completed for a limited period following the *Preliminary Determination*.[5] Specifically, Commerce required completion of the importer and exporter certifications within 45 days of publication of the *Preliminary Determination* **Federal Register** notice. Likewise, for such merchandise, the exporter was required to provide the importer a copy of the exporter certification within 45 days of the *Preliminary Determination* publication.

For unliquidated entries (and entries for which liquidation has not become final) of merchandise entered as type 01 entries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, produced from Chinese substrate, importers should file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding possible conversion of such entries from type 1 to type 3 entries and report those type 3 entries using the third-country case numbers A–552–994 and C–552–995. Accordingly, the importer also should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

For merchandise (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the **Federal Register**, for which certifications are required, importers and exporters each had the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.[6] The importer certifications, and copies of the exporter certifications, should be maintained by the importer and provided to CBP or Commerce upon request by the respective agency.

Appendix III

Importer Certification

I hereby certify that:

[5] *See* Commerce Memorandum, ''Clarification of Certification Requirements Pursuant to Preliminary Affirmative Anti-circumvention Rulings and Extension of 30-Day Deadline for Pre-Preliminary Determination Shipments,'' dated January 9, 2018, at 2–3.

[6] *Id.*

• My name is {INSERT COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY};

• This certification pertains to {INSERT ENTRY NUMBER(S), ENTRY LINE NUMBER(S), AND PRODUCT CODE(S) REFERENCED ON ENTRY SUMMARY};

• I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion-resistant steel products produced in the Socialist Republic of Vietnam (Vietnam) that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. ''Direct personal knowledge'' for purposes of this certification refers to facts in records maintained by the importing company in the normal course of its business. The importer should have ''direct personal knowledge'' of the importation of the product (*e.g.,* the name of the exporter) in its records;

• I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' for purposes of this certification includes facts obtained from another party (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of the substrate used to produce the imported products);

• The corrosion-resistant steel products produced in Vietnam that are covered by this certification do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China;

• I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT IMPORTING COMPANY NAME} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of the Exporter's Certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

• I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain and provide a copy of the Exporter's Certification and supporting records, upon request, to CBP and/or the Department;

• I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met, and

○ the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;

• I understand that agents of the importer, such as brokers, are not permitted to make this certification;

• This certification was completed at the time of filing the entry summary for the relevant importation;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

Appendix IV

Exporter Certification

I hereby certify that:

• My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};

• This certification pertains to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS AND PRODUCT CODE(S) REFERENCED ON INVOICE};

• I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products from the Socialist Republic of Vietnam (Vietnam) that shipped pursuant to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS} and are covered by this certification. ''Direct personal knowledge'' for purposes of this certification refers to facts in records maintained by the exporting company in the normal course of its business. For example, an exporter should have ''direct personal knowledge'' of the producer's identity and location.

• The corrosion-resistant steel products produced in Vietnam that are covered by this certification do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China.

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer before or at the time of shipment;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met, and

○ the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates as determined by the Department;

• This certification was completed before or at the time of shipment of the relevant entries;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

[FR Doc. 2018–11028 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of 30-day Public Comment Period on an Addendum to the Portland Harbor Damage Assessment Plan

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Comment Period.

SUMMARY: On June 1, 2010 NOAA and its co-members of the Portland Harbor Trustee Council (Trustee Council) published the ''Portland Harbor Superfund Site Natural Resource Damage Assessment Plan'', which set forward the Trustee Council's approach for assessing natural resource damages at the Portland Harbor Superfund Site in cooperation with potentially responsible parties in order to resolve natural

resource damages liability through legal settlements.

Through today's notice, NOAA is announcing: (1) An addendum to the plan that provides for additional efforts to complete the assessment of natural resource damages for lost ecological and human use services resulting from releases of hazardous substances and oil to the lower Willamette River in Portland, Oregon; and (2) a provision of a 30-day period for public comment on the addendum.

ADDRESSES: Comments are sought on the new addendum to the damage assessment plan and should be emailed to *Robert.Neely@noaa.gov* with the subject line: ''Comments on Addendum to the Portland Harbor Natural Resource Damage Assessment Plan.'' Comments may also be mailed to: Rob Neely of NOAA Western Region Center, 7600 Sand Point Way, Building 1, Seattle, WA, 98118. The addendum is found at: *https://casedocuments.darrp.noaa.gov/northwest/portharbor/pdf/Portland_Harbor_Addendum_to_Nat_Res_Damage_Assess_Plan_0309_2018_Public.pdf*

SUPPLEMENTARY INFORMATION: On December 1, 2000 the U.S. Environmental Protection Agency placed Portland Harbor on the National Priorities List, thus designating it as a Superfund Site. Since the early 1900s numerous industrial facilities have operated in the vicinity of the lower Willamette River from its confluence with the Columbia River at river mile 0 upstream to downtown Portland at approximately river mile 14. Activities have included ship building, repair and maintenance; energy generation; oil and gas transfer and storage; pesticide production; port operations; and others. These activities have resulted in the release of hazardous substances and oil to the Portland Harbor.

Examples of contaminants of concern released to the Portland Harbor include polychlorinated biphenyls (PCBs), pesticides, metals, polycyclic aromatic hydrocarbons, and semi-volatile organic compounds. Natural resources such as benthic invertebrates, migratory fish (such as juvenile Chinook salmon), resident fish (such as sculpin), mink, osprey and bald eagles exposed to these compounds can potentially be harmed as a result. In addition, hazardous substances released to the Portland Harbor have resulted have reduced the human use services (*e.g.,* recreational fishing, recreational boating, tribal uses) provided by the lower Willamette River. In addition, fish consumption advisories related to hazardous substances have been issued to the public warning of the risks associated with consumption of various fish species commonly targeted by anglers. Addendum 2 to the Damage Assessment Plan sets forth the approach the Trustee Council will apply to completing the damage assessment process to resolve natural resource damages liability with non-settling parties.

The Trustee Council is composed of Federal, state and tribal natural resource trustees. Members of the Trustee Council include the U.S. Department of the Interior, acting through the U.S. Fish and Wildlife Service (USFWS); the U.S. Department of Commerce, acting through NOAA; the State of Oregon; the Confederated Tribes of the Grand Ronde Community of Oregon; the Confederated Tribes of Siletz Indians; the Confederated Tribes of the Umatilla Indian Reservation; the Confederated Tribes of the Warm Springs Reservation of Oregon; and the Nez Perce Tribe. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.;* the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2701 *et seq.;* the Clean Water Act (CWA), 33 U.S.C. 1251; the National Oil and Hazardous Substances Pollution Contingency Plan [National Contingency Plan (NCP)], 40 CFR 300, Subpart G; Executive Orders 12580 and 12777; and other applicable federal and state laws and regulations, provide a legal framework for the Trustee Council's actions.

Under the federal regulations, the Trustee Council can elect to perform a Type A or Type B injury assessment. Type A assessment procedures use simplified model assumptions to assess injuries that result from a single event or short-term exposure. Releases of hazardous substances from the Site have occurred from multiple sources over many decades, resulting in complex exposure conditions impacting aquatic and upland media and associated complex food webs. Therefore, the Trustee Council previously elected to perform a Type B assessment, the procedures for which require ''more extensive field observation than the Type A procedures.'' 43 CFR 11.33(b). This assessment method includes injury determination, quantification, and damage determination. Because substantial Site-specific data already exist to support the assessment, a Type B assessment can be conducted for the Site at a reasonable cost. The federal regulations for a Type B assessment outline methods for determining (1) pathways through which hazardous substances released by PLPs expose natural resources, (2) injuries to natural resources, (3) the extent of those injuries and resultant public losses, (4) baseline conditions and time required for the resources to recover to baseline, and (5) the cost or value of restoring injured resources. These methods facilitate calculation of natural resource damages. 43 CFR 11.60–11.84.

Dated: May 16, 2018.

David Westerholm,

Director, Office of Response and Restoration.

[FR Doc. 2018–11075 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG240

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the following: Personnel Committee (Closed Session); Scientific and Statistical Committee (SSC) Selection Committee (Closed Session); Southeast Data, Assessment and Review (SEDAR) Committee (Partially Closed Session); Citizen Science Committee (Partially Closed Session); Spiny Lobster Committee; Law Enforcement Commitment; Habitat Protection and Ecosystem-Based Management Committee; Snapper Grouper Committee; Joint Habitat Ecosystem, Shrimp, and Golden Crab Committees; Highly Migratory Species (HMS) Committee; Mackerel Cobia Committee; Standard Operating, Policy, and Procedure (SOPPs) Committee; and the Executive Finance Committee. The Council will meet as a Committee of the Whole to address the Acceptable Biological Catch (ABC) Control Rule and have a meeting of the full Council.

The Council will also hold an informal Question and Answer Session, a formal public comment session, and take action as necessary. A For-Hire Electronic Reporting Outreach Training Session will also be held.

DATES: The Council meeting will be held from 1:30 p.m. on Sunday, June 10, 2018 until 1 p.m. on Friday, June 15, 2018.

ADDRESSES:

Meeting address: The meeting will be held at the Bahia Mar Doubletree by

Hilton, 801 Seabreeze Boulevard, Ft. Lauderdale, FL 33316; phone: (855) 610–8733; fax: (954) 627–6359.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.* Meeting information is available from the Council's website at: *http://safmc.net/meetings/council-meetings/.*

SUPPLEMENTARY INFORMATION: *Public comment:* Written comments may be directed to Gregg Waugh, Executive Director, South Atlantic Fishery Management Council (see *Council address*) or electronically via the Council's website at *http://safmc.net/safmc-meetings/council-meetings/.* The public comment form is open for use when the briefing book is posted to the website on the Friday, two weeks prior to the Council meeting (5/25/18). Comments received by close of business the Monday before the meeting (6/4/18) will be compiled, posted to the website as part of the meeting materials, and included in the administrative record; please use the Council's online form available from the website. For written comments received after the Monday before the meeting (after 6/4/18), individuals submitting a comment must use the Council's online form available from the website. Comments will automatically be posted to the website and available for Council consideration. Comments received prior to noon on Thursday, June 14, 2018 will be a part of the meeting administrative record.

The items of discussion in the individual meeting agendas are as follows:

Personnel Committee (Closed Session), Sunday, June 10, 2018 From 1:30 p.m. Until 6 p.m. and Monday, June 11, 2018, 8 a.m. Until 11 a.m.

1. The Personnel Committee will meet in Closed Session to discuss personnel issues relative to budget and provide recommendations for Council consideration.

SSC Selection Committee (Closed Session), Monday, June 11, 2018, 11 a.m. Until 12 Noon

1. The Committee will review applications and provide recommendations for appointments.

SEDAR Committee (Partially Closed Session), Monday, June 11, 2018, 1 p.m. Until 2 p.m.

1. The Committee will review applications and provide recommendations for appointments (Closed Session).

2. The Committee will review Terms of Reference for cobia and yellowtail snapper stock assessments, receive SSC comments, and updates on assessment activities.

Citizen Science Committee (Partially Closed)—Monday, June 11, 2018, 2 p.m. until 3 p.m.

1. The Committee will review applicants for the Operations Committee and make recommendations for appointments (Closed Session).

2. The Committee will receive an update on program development, review draft Citizen Science research needs, and provide recommendations as appropriate.

3. The Committee will receive an update on the Citizen Science pilot project and provide recommendations as appropriate.

Law Enforcement Committee (Partially Closed), Monday, June 11, 2018, 3 p.m. Until 4 p.m.

1. The Committee will review nominations for Law Enforcement Officer of the Year and provide recommendations for Council consideration. (Closed Session).

2. The Committee will receive a report from the Law Enforcement Advisory Panel, discuss and provide recommendations as appropriate.

3. The Committee will receive a report on U.S. Coast Guard Law Enforcement priorities, discuss and provide recommendations for Council consideration.

Spiny Lobster Committee, Monday, June 11, 2018, 4 p.m. Until 5 p.m.

1. The Committee will receive an update on the status of catches versus annual catch limit (ACLs) and a report from the Spiny Lobster Advisory Panel.

2. The Committee will review draft Spiny Lobster Amendment 13 addressing bullynets and measures recommended by the Florida Fish and Wildlife Conservation Commission (FWC), select preferred alternatives, and provide recommendations for taking the draft amendment to public hearings.

Habitat and Ecosystem-Based Management Committee Meeting, Monday, June 11, 2018, 5 p.m. Until 6 p.m.

1. The Committee will receive a report from the Habitat Advisory Panel and provide guidance to staff as necessary.

2. The Committee will receive an update on habitat and ecosystem tools and model development, and review and approve actions on habitat as appropriate.

Snapper Grouper Committee, Tuesday, June 12, 2018, 8 a.m. Until 5 p.m., and Wednesday, June 13, 2018, 8 a.m. Until 4:30 p.m.

1. The Committee will receive updates from NOAA Fisheries on commercial and recreational catches versus quotas for species under ACLs and the status of amendments under formal Secretarial review.

2. The Committee will receive an update from NOAA Fisheries on the red snapper season for 2018, the status of the 2017 catches, and the length of the 2018 season, discuss and take action as necessary.

3. The Committee will discuss an extension of the interim rule for the annual catch limit for golden tilefish, discuss and consider requesting an extension from NOAA Fisheries.

4. The Committee will receive a report from the Snapper Grouper Advisory Panel and take action as necessary. The Committee will also receive a presentation on a case study examining bag limit and trip satisfaction in the for-hire sector specific to black sea bass.

5. The Committee will receive a report from the SSC including results of stock assessment reviews for black sea bass and vermilion snapper, Acceptable Biological Catch (ABC) recommendations for blueline tilefish north of Cape Hatteras, Red Snapper ABC Workgroup update, and golden tilefish ABC recommendations. The Committee will take action as necessary. The Committee will also receive an update on the Southeast Reef Fish Survey.

6. The Committee will review draft Snapper Grouper Amendment 46 addressing permitting and reporting measures for private recreational anglers, provide guidance to staff, and consider approval for public scoping. The Committee will also review draft Snapper Grouper Amendment 29 addressing best fishing practices and the use of powerheads for harvesting species in the snapper grouper complex, provide guidance to staff, and consider approval for public scoping.

7. The Committee will receive an overview of the Vision Blueprint

Regulatory Amendment 26 addressing recreational management actions and alternatives as identified in the 2016–2020 Vision Blueprint for the Snapper Grouper Fishery Management Plan. The Committee will modify the document as necessary, select preferred alternatives, and approve all actions.

8. The Committee will receive an overview of Vision Blueprint Regulatory Amendment 27 addressing commercial management actions and alternatives, as identified in the 2016–2020 Vision Blueprint for the Snapper Grouper Fishery and a presentation on discard mortality of gray triggerfish. The Committee will modify the document as necessary, select preferred alternatives, and approve all actions.

9. The Committee will review a draft scoping document for Snapper Grouper Amendment 47 addressing options for a moratorium on federal for-hire permits, discuss and provide guidance to staff, and consider approval for public scoping.

10. The Committee will receive an overview of Regulatory Amendment 30 addressing a rebuilding plan for red grouper, review, provide guidance to staff, and consider approval for public scoping.

11. The Committee will receive an overview of draft Snapper Grouper Regulatory Amendment 28 addressing golden tilefish management, consider public comments, and consider approval for formal Secretarial review.

12. The Committee will receive an overview of draft Snapper Grouper Amendment 42 addressing sea turtle release gear, review scoping comments and modify/approve actions and alternatives to be analyzed. The Committee will also receive an overview of draft Regulatory Amendment 31 addressing management measures for yellowtail snapper and provide guidance to staff.

Informal Question and Answer Session, Tuesday, June 12, 2018, 5 p.m.

Formal Public Comment, Wednesday, June 13, 2018, 4:30 p.m.—Public comment will be accepted on items on the Council agenda including Snapper Grouper Amendment 28 (golden tilefish) and Coastal Migratory Pelagic (CMP) Amendment 31 (Atlantic cobia) that the Council is considering for final approval. The Council is also accepting public comment on Executive Order 13771 (2 for 1 regulations) to identify regulations that are (1) outdated, (2) unnecessary, or (3) ineffective. The Council Chair, based on the number of individuals wishing to comment, will determine the amount of time provided to each commenter.

ABC Control Rule—Committee of the Whole, Thursday, June 14, 2018, 8 a.m. Until 10 a.m.

1. The Committee of the Whole will receive an overview of the modified ABC Control Rule Amendment, receive SSC comments, discuss and develop recommendations and consider scoping alternatives.

2. The Committee of the Whole will receive an overview of Recreational Accountability Measures, discuss, and develop recommendations.

Joint Habitat and Ecosystem-Based Management, Shrimp, and Golden Crab Committee Meeting, Thursday, June 14, 2018, 10 a.m. Until 11 a.m.

1. The Committees will receive an overview of the joint Coral Amendment 10/Shrimp Amendment 11/Golden Crab Amendment 10 addressing access and transit provisions and options for Vessel Monitoring Systems (VMS) for the golden crab fishery. The Committees will also receive reports from the Coral AP, Shrimp AP, and Golden Crab AP before discussing the joint amendment, provide recommendations, and consider approving for public scoping.

Highly Migratory Species (HMS) Committee, Thursday, June 14, 2018, 11 a.m. Until 12 p.m.

1. The Committee will review options for incorporating Special Management Zones into regulations for the HMS bottom longline fishery and provide guidance to staff.

Mackerel Cobia Committee, Thursday, June 14, 2018, 1 p.m. Until 3 p.m.

1. The Committee will receive an update on commercial and recreational catches versus ACLs, a report from the Mackerel Cobia AP, and an update on landing and effort estimates for tournaments from the Marine Recreational Information Program (MRIP).

2. The Committee will review Coastal Migratory Pelagics Framework Amendment 6 addressing Atlantic king mackerel trip limits, confirm preferred alternatives, and consider approval for public hearings.

3. The Committee will review Coastal Migratory Pelagics Amendment 31 addressing proposed management measures for Atlantic cobia, receive a response from the Atlantic States Marine Fisheries Commission addressing management concerns, receive an update from the Cobia Stock Identification Workshop, review the document, and consider approving the amendment for formal Secretarial review.

SOPPs Committee, Thursday, June 14, 2018, 3 p.m. Until 4 p.m.

1. The Committee will receive an overview of changes proposed to the SOPPs and Council Handbook, discuss, and provide direction to staff as appropriate.

Executive/Finance Committee, Thursday, June 14, 2018, 4 p.m. Until 5:30 p.m.

1. The Committee will receive an overview of the current Magnuson-Stevens Reauthorization efforts, discuss, and provide guidance to staff.

2. The Committee will receive an overview of the draft Calendar Year 2018 budget, the Council's Follow Up document and priorities list, discuss, and provide guidance to staff.

3. The Committee will receive an overview of regulatory reform efforts, Atlantic Coast-Wide Group discussion, and the Council's consideration for an Aquaculture Fishery Management Plan, discuss, and provide guidance to staff. The Committee will also receive a report from the Council Coordination Committee's May 2018 meeting, discuss, and provide guidance to staff.

For Hire Electronic Reporting Outreach Training, Thursday, June 14, 2018, 6 p.m.

The Council will hold a workshop as part of a series of training sessions targeting charter vessel owners/operators.

Council Session: Friday, June 15, 2018, 8 a.m. Until 1 p.m. (Partially Closed Session if Needed)

The Full Council will begin with the Call to Order, adoption of the agenda, approval of minutes, announcements and introductions, and awards/recognition.

The Council will receive a Legal Briefing on Litigation from NOAA General Counsel (if needed) during Closed Session. The Council will receive staff reports including the Executive Director's Report, a presentation on the MyFishCount Recreational Reporting pilot project, and a report on the Economic Impacts of Fisheries for Council-managed Species.

Updates will be provided by NOAA Fisheries including a report on the status of commercial catches versus ACLs for species not covered during an earlier committee meeting, the status of Recreational and Commercial Quota Monitoring Tables on the NOAA Fisheries Southeast Regional Office website, data-related reports, a protected resources update, update on the status of the of the Commercial Electronic Logbook Program, and a presentation on

the method used to determine dolphin pelagic longline landings by permit type. The Council will discuss and take action as necessary.

The Council will review any Exempted Fishing Permits received as necessary. The Council will receive Committee reports from the Snapper Grouper, Mackerel Cobia, Spiny Lobster, Law Enforcement, SSC Selection, ABC Control Rule Committee of the Whole, SEDAR, Habitat, Joint Habitat and Ecosystem-Based Management/Shrimp/Golden Crab, Citizen Science, Personnel, SOPPs, and Executive Finance Committees, and take action as appropriate.

The Council will receive agency and liaison reports; and discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 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 18, 2018.

Rey Israel Marquez,

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

[FR Doc. 2018–11023 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG247

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: A subgroup of the North Pacific Fishery Management Council (Council) Bering Sea Fishery Ecosystem Plan team (BS FEP) will meet June 14, 2018.

DATES: The meeting will be held on Thursday, June 14, 2018, from 9:30 a.m. to 4:30 p.m. Pacific standard time.

ADDRESSES: The meeting will be held in 2039, MML room, at the Alaska Fisheries Science Center, 7700 Sand Point Way NE, Seattle, WA 98115. Teleconference number: 1–877–953–3919.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave, Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907)–271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday June 14, 2018

The purpose of the meeting is to review, revise, and develop the goals and objectives of the draft Bering Sea Fishery Ecosystem Plan, and discuss metrics for measuring whether objectives are being accomplished. Revised goals and objectives will be included in the next draft of the BS FEP, which is scheduled to be reviewed by the Council's Ecosystem Committee in July.

Public Comment

Public comment letters will be accepted and should be submitted either electronically to Diana Evans, Council staff: *diana.evans@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 discretion of the chair.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 18, 2018.

Rey Israel Marquez,

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

[FR Doc. 2018–11024 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG236

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of meetings of its Citizen Science Advisory Panel Finance and Infrastructure Action Team via webinar.

DATES: The meeting via webinar will be held every other week on Wednesday at 1 p.m. starting June 13, 2018. The schedule of meetings is Wednesday, June 13; June 27; July 11; July 25; and August 22, 2018. All of the meetings will start at 1 p.m. and are scheduled to last approximately 90 minutes each. Additional Action Team meetings and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES:

Meeting address: The meetings will be held via webinar and are open to members of the public. Webinar registration is required and registration links will be posted to the Citizen Science program page of the Council's website at *www.safmc.net.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone: (843) 302–8433 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *amber.vonharten@safmc.net.*

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (Council) created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of *Volunteers, Data Management, Projects/Topics Management, Finance and Infrastructure,* and *Communication/Outreach/Education* to develop program policies and operations for the Council's Citizen Science Program.

The Finance and Infrastructure Action Team will meet to continue work on developing recommendations on program policies and operations to be

reviewed by the Council's Citizen Science Committee. Public comment will be accepted at the beginning of the meeting.

Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference
2. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 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 18, 2018.

Rey Israel Marquez,

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

[FR Doc. 2018–11022 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG213

Permanent Advisory Committee To Advise the U.S. Commissioners To the Western and Central Pacific Fisheries Commission; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting of the Permanent Advisory Committee (PAC) to advise the U.S. Commissioners to the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) on June 29, 2018.

DATES: The meeting of the PAC will be held via conference call on June 29, 2018, from 11 a.m. to 1 p.m. HST (or until business is concluded). Members of the public may submit written comments; comments must be received by June 26, 2018.

ADDRESSES: The public meeting will be conducted via conference call. For details on how to call in to the conference line or to submit comments, please contact Valerie Post, NMFS Pacific Islands Regional Office; telephone: 808–725–5034; email: *valerie.post@noaa.gov.* Documents to be considered by the PAC will be sent out via email in advance of the conference call. Please submit contact information to Valerie Post (telephone: 808–725–5034; email: *valerie.post@noaa.gov)* at least 3 days in advance of the call to receive documents via email.

FOR FURTHER INFORMATION CONTACT: Valerie Post, NMFS Pacific Islands Regional Office; 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone: 808–725–5034; facsimile: 808–725–5215; email: *valerie.post@noaa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), the Permanent Advisory Committee, or PAC, has been formed to advise the U.S. Commissioners to the WCPFC. Members of the PAC have been appointed by the Secretary of Commerce in consultation with the U.S. Commissioners to the WCPFC. The PAC supports the work of the U.S. National Section to the WCPFC in an advisory capacity. The U.S. National Section is made up of the U.S. Commissioners and the Department of State. NMFS Pacific Islands Regional Office provides administrative and technical support to the PAC in cooperation with the Department of State. More information on the WCPFC, established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, can be found on the WCPFC website: *http://www.wcpfc.int.*

Meeting Topics

The purpose of the June 29, 2018, conference call is to discuss outcomes of the 2017 regular session of the WCPFC (WCPFC14), 2018 U.S. priorities in the WCPFC, and potential management measures for tropical tunas and other issues of interest.

Special Accommodations

The conference call is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Valerie Post at 808–725–5034 at least ten working days prior to the meeting.

Authority: 16 U.S.C. 6902 *et seq.*

Dated: May 18, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018–11035 Filed 5–22–18; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Friday, May 18, 2018; 2:00 p.m.*

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD 20814.

STATUS: Commission Meeting—Closed to the public.

MATTER TO BE CONSIDERED: Compliance Matter: The Commission staff will brief the Commission on the status of a compliance matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Secretary, Office of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7479.

* The Commission unanimously determined by recorded vote that Agency business requires calling the meeting without seven calendar days advance public notice.

Dated: May 18, 2018.

Alberta E. Mills,

Secretary.

[FR Doc. 2018–11092 Filed 5–21–18; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Request for Information on Technologies To Support Operations in the Information Environment

AGENCY: Department of the Army, DoD.

ACTION: Request for information

SUMMARY: The Department of the Army hereby gives notice of its intent to conduct an Information Event (meeting) on technologies to support operations in the information environment. This event will identify existing technologies to address requirements identified in the Joint Concept for Operations in the Information Environment (JCOIE). The intended effect of the Information Event is to identify potential performers and technology capabilities for future contract actions.

DATES: The event will take place from June 25–29, 2018 at 8283 Greensboro Drive, McLean, VA 22102.

ADDRESSES: Requests to attend the event should be sent to Dr. Elizabeth K. Bowman, Army Research Lab, *Elizabeth.k.bowman.civ@mail.mil* not later than June 15, 2018 by email or in writing: U.S. Army Research Laboratory Computational and Information Science

Directorate, RDRL–CII/Elizabeth Bowman, Building 321 Room 134, Aberdeen Proving Ground, MD 21005–5425.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bowman, (410) 278–5924, E-Mail: *Elizabeth.k.bowman.civ@mail.mil*

SUPPLEMENTARY INFORMATION: Interested offerors of information may attend the event in person or may submit a 100-word response describing how a technology meets one or more of the tasks identified in this document. Written responses should be sent to Dr. Bowman not later than June 29, 2018 for inclusion in a summary technology report.

The Joint Information Operations Warfare Center (JIOWC) is establishing requirements to support the emerging domain of Operations in the Information Environment. A Capability Based Assessment (CBA) has identified four Concept Requirement Capabilities (CRC's), identified below, each consisting of sub-ordinate task requirements. The CRCs and the supporting sub-tasks are identified below:

Required Capabilities

A. *Required Capabilities to Characterize and Assess the Informational, Physical, and Human Aspects of the Security Environment. The Joint Force requires the ability to:*

A.1 determine impact of relevant informational, physical, and human aspects of the security environment on Joint Force objectives.

A.2 understand the perceptions and attitudes that drive behaviors that affect JFC's objectives.

A.3 understand how relevant actors are successful in adapting their use of information technology.

A.4 share contextual understanding of the security environment.

A.5 characterize, assess, synthesize, and understand trends of relevant actor activities and their impacts on the IE throughout cooperation, competition, and conflict.

A.6 analyze and estimate relevant change within the IE.

A.7 identify, access, and manage IE subject matter expertise.

A.8 understand internal and other relevant actor bias within the IE.

B. Required Capabilities to Formulate Options that Integrate Physical and Informational Power. The Joint Force requires the ability to:

B.1 identify, optimize and assess the effectiveness of the full range of options that integrate physical and informational power to produce desired psychological effects.

B.2 employ required forces and capabilities from across the Joint Force to sustain or change perceptions and attitudes that drive desired behaviors of relevant actors.

B.3 assess relevant actors' capability and capacity to receive, understand, and respond to Joint Force physical and informational activities.

C. Required Capabilities to Execute and Modify Options. The Joint Force requires the ability to:

C.1 execute integrated physical and informational activities designed to achieve psychological effects.

C.2 assess and modify informational power with the same level of competency as physical power.

D. Required Capabilities to Institutionalize the Integration of Physical and Informational Power. The Joint Force requires the ability to:

D.1 change how its individuals, organizations, and units think about and treat information.

D.2 organize, train, equip, and maintain organizations that deliberately leverage the informational aspects of military activities.

D.3 integrate operations with interorganizational partners.

D.4 leverage physical and informational power at its discretion to achieve objectives.

The Joint Concept for Operations in the Information Environment provides a detailed review of the CRCs. This document is available upon request from Dr. Bowman.

The Army Research Lab (ARL) is conducting a technology state-of-the-art review in support of the JIOWC CBA to identify technology readiness levels (TRLs) of existing or emerging systems to support the four CRCs and each of the subordinate requirements. The Information Event will begin with a government overview of the importance and military relevance of OIE. This will be followed by a staff overview of the OIE CRCs and sub-tasks that will include discussion and question/answers from the audience. Four CRC subgroups will be formed and led by government advisors to explore the technology requirements in more detail. A technology demonstration opportunity will be offered during the last two hours of day one for attendees to provide technology exemplars. Days two and three (the number of days will be determined by the number of attendees interested in presenting) will consist of individual briefings by interested parties. Briefings will be organized by CRCs. Presentations should not exceed 10 minutes to be followed by 5 minutes of questions/answers.

As indicated previously, physical attendance is not required at the Information Event. If interested parties would like to promote their technology for any of the CRCs, they should send a written description of how the technology addresses one or more CRC or sub-task. Each description should not be greater than 100 words and should include the TRL for the system. The description should clearly identify the offerer name, contact information, and identify any operational user groups.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–11019 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Closed Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of a closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, the Sunshine in the Government Act of 1976 and the Code of the Federal Regulations, the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB) Summer Voting Session.

Date: Thursday, July 19, 2018.

Time: 8:30 a.m. to 12:30 p.m.

Location: Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering, 100 Academy Way, Irvine, CA 92617.

Purpose of Meeting: The purpose of the meeting is for ASB members to review, deliberate, and vote on the findings and recommendations presented for four Fiscal Year 2018 (FY18) ASB studies.

Agenda: The board will present findings and recommendations for deliberation and vote on the following FY17 studies:

Multi-Domain Operations. This study is classified and will be presented in a closed meeting at 8:30 a.m. to 10:00 p.m.

Man Unmanned-Teaming. This study is classified and will be presented in a closed meeting at 10:15 a.m. to 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; Ms. Heather J. Gerard (Ierardi), the committee's Designated Federal Officer (DFO), at (703) 545–8652 or email: *heather.j.ierardi.civ@mail.mil,* or Mr. Paul Woodward at (703) 695–8344 or email: *paul.j.woodward2.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

(*Filing Written Statement*): Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow the public to speak; however, interested persons may submit a written statement for consideration by the Subcommittees.

Individuals submitting a written statement must submit their statement to the DFO at the address listed above. Written statements not received at least 10 calendar days prior to the meeting may not be considered by the Board prior to its scheduled meeting.

The DFO will review all timely submissions with the Board's executive committee and ensure they are provided to the specific study members as necessary before, during, or after the meeting. After reviewing written comments, the study chairs and the DFO may choose to invite the submitter of the comments to orally present their issue during a future open meeting.

The DFO, in consultation with the executive committee, may allot a specific amount of time for members of the public to present their issues for discussion.

Public's Accessibility to the Meeting: The Department of the Army has determined that the Multi-Doman Operations study and the Man Unmanned-Teaming study are classified and are thus closed to the public in accordance with 5 U.S.C. 552b(c) (1), which permits Federal Advisory Committee meetings to be closed which are likely to ''disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order.''

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–11018 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0009; OMB Control Number 0704–0479]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Earned Value Management System; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 22, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Business Systems-Definition and Administration; DFARS 234, Earned Value Management System, OMB Control Number 0704–0479.

Affected Public: Businesses and other for-profit entities.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 10.

Responses per Respondent: 1.

Annual Responses: 10.

Average Burden per Response: 676 hours.

Annual Response Burden Hours: 6,760.

Needs and Uses: DFARS clause 252.242–7005, Contractor Business Systems, requires contractors to respond to written determinations of significant deficiencies in the contractor's business systems as defined in the clause. The information contractors are required to submit in response to findings of significant deficiencies in their accounting system, estimating system, material management and accounting system, and purchasing system has previously been approved by the Office of Management and Budget. This request specifically addresses information required by DFARS clause 252.234–7002, Earned Value Management System, for contractors to respond to determinations of significant deficiencies in a contractor's Earned Value Management System (EVMS). The requirements apply to entities that are contractually required to maintain an EVMS. DoD needs this information to document actions to correct significant deficiencies in contractor business systems. DoD contracting officers use the information to mitigate the risk of unallowable and unreasonable costs being charged on government contracts.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2018–10906 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0011; OMB Control Number 0704–0255]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Construction and Architect-Engineer Contracts; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 22, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 236, Construction and Architect-Engineer Contracts, and related clauses at DFARS 252.236; OMB Control Number 0704–0255.

Affected Public: Businesses and other for-profit entities.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 1,735.

Responses per Respondent: 5.

Annual Responses: 8,675.

Average Burden per Response: 12.

Annual Response Burden Hours: 104,100.

Needs and Uses: DoD contracting officers need this information to

evaluate contractor proposals for contract modifications; to determine that a contractor has removed obstructions to navigation; to review contractor requests for payment for mobilization and preparatory work; to determine reasonableness of costs allocated to mobilization and demobilization; and to determine eligibility for the 20 percent evaluation preference for United States firms in the award of some overseas construction contracts.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2018–10911 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0012; OMB Control Number 0704–0454]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Administrative Matters; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 22, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), U.S.-International Atomic Energy Agency Additional Protocol; OMB Control Number 0704–0454.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Renewal of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 1 hour.

Annual Response Burden Hours: 300.

Needs and Uses: This requirement is necessary to provide for protection of information or activities with national security significance. As such, this information collection requires contractors to comply with the notification process at DFARS 252.204–7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2018–10908 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0010; OMB Control Number 0704–0187]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements); Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 22, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements); OMB Control Number 0704–0187.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 308.

Responses per Respondent: 1.

Annual Responses: 308.

Average Burden per Response: 2 hours.

Annual Burden Hours: 616.

Frequency: On occasion.

Needs and Uses: This information collection requirement pertains to information required in DFARS parts 208, 209, 235, and associated clauses in part 252 that an offeror must submit to DoD in response to a request for proposals or an invitation for bids or a contract requirement. DoD uses this information to—

- Determine whether to provide precious metals as Government-furnished material;
- Determine whether a foreign government owns or controls the offeror to prevent access to proscribed information;
- Determine whether there is a compelling reason for a contractor to enter into a subcontract in excess of $30,000 with a firm, or subsidiary of a firm, that is identified in the "List of

Parties Excluded from Federal Procurement and Nonprocurement'' as being ineligible for award of Defense subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism;

• Evaluate claims of indemnification for losses or damages occurring under a research and development contract; and

• Keep track of radio frequencies on electronic equipment under research and development contracts so that the user does not override or interfere with the use of that frequency by another user.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2018–10905 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2018–OS–0024]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), Department of Defense.

ACTION: Notice of response to public comments on proposed amendments to the Manual for Courts-Martial, United States (2016 ed.).

SUMMARY: The Joint Service Committee on Military Justice (JSC) is publishing the response to public comments concerning amendments to the Manual for Courts-Martial, United States (MCM). These amendments include provisions implementing the Military Justice Act of 2016 and subsequent amendments necessitated by follow-on legislation. The changes concern the rules of procedure and evidence applicable in trials by court-martial, nonjudicial punishment proceedings, and the punitive articles of the Uniform Code of Military Justice. Also included is a proposed revision of Appendix 12A of the Manual for Courts-Martial concerning lesser included offenses. The approval authority for these changes is the President. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.01, ''Preparing, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters, and Testimony,'' June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

FOR FURTHER INFORMATION CONTACT: LT Alexandra Nica, JAGC, USN, (202) 685–7058 or *alexandra.nica@navy.mil.*

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2017 (79 FR 59938–59959), the JSC published a Notice of Proposed Amendments concerning procedure and evidence applicable in trials by court-martial, non-judicial punishment proceedings, and the punitive articles of the Uniform Code of Military Justice as amended by the Military Justice Act of 2016, Division E of the National Defense Authorization Act for Fiscal Year 2017 and follow-on changes made by the National Defense Authorization Act for Fiscal Year 2018. The Notice also included a proposed revision of Appendix 12A of the Manual for Courts-Martial concerning lesser included offenses and a Notice of Public Meeting to receive comments on these proposals. The public meeting was held on August 3, 2017. Two members of the public provided oral comments at the public meeting, and both members of the public also submitted written comments electronically. Several additional written comments were received electronically. All comments were considered by the JSC.

Public Comments

Comments and materials received from the public are available under Docket ID Number DOD–2017–OS–0032, and at the following link *https://www.regulations.gov/docket?D=DOD-2017-OS-0032.*

Discussion of Comments and Changes

The JSC considered each public comment and made some modifications to the proposed amendments accordingly.

a. Several comments concerning orthography, grammar, and syntax were received and reviewed, and corrections were made throughout the Manual for Courts-Martial.

b. The extensive nature of the proposed changes necessitated the reproduction, in full, of Parts I–V of the Manual for Courts-Martial and, although not a part of the proposed Executive Order or issued by the President, the Analyses and Discussions were set forth immediately following the provisions and paragraphs to which they pertained to facilitate review and comment on the proposed amendments. Additionally, Appendix 2.1 provided proposed non-binding guidance to be issued by the Secretary of Defense, in consultation with the Secretary of Homeland Security, pursuant to Article 33 (Disposition Guidance) of the Uniform Code of Military Justice (UCMJ), 10 U.S.C. 833. Comments were received suggesting changes to Analyses, Discussions, and the Appendices. These comments are being considered by the JSC and the Department of Defense in the preparation of the supplementary materials.

c. The Department of Defense published several proposals concerning impaneling and excusing excess members and specifically solicited comments as to the optimal rule for removing excess members consistent with Article 36 of the Uniform Code of Military Justice. Several comments were received regarding the different proposals. Proposal #1, providing for the random assignment of numbers to remaining members by the military judge, was incorporated.

d. A comment proposing a change to R.C.M. 804 to ensure that court-martial attendance by the accused constitutes the accused's appointed place of duty for purposes of pay and allowance was received. The comment highlighted that multiple courts had granted confinement credit for accused who did not receive normal pay and allowances or had to pay for their own travel and housing during the pendency of the court-martial. The JSC has adopted this proposal as follows:

—R.C.M. 804(a) is amended to read as follows:

''(a) Presence required. The accused shall be present at the arraignment, the time of the plea, every stage of the trial including sessions conducted under Article 39(a), voir dire and challenges of

members, the return of the findings, presentencing proceedings, and post-trial sessions, if any, except as otherwise provided by this rule. Attendance at these proceedings shall constitute the accused's appointed place of duty and, with respect to the accused's travel allowances, none of these proceedings shall constitute disciplinary action. This does not in any way limit authority to implement restriction, up to and including confinement, as necessary in accordance with R.C.M. 304 or R.C.M. 305.''

e. A comment was received proposing changes to R.C.M. 703 and R.C.M. 405 to incorporate Fed. R. Crim. Proc. 17 which was created in 2008 to comply with the requirements of the Federal Crime Victims' Rights Act, (''FCVRA''), codified at 18 U.S.C. 3771. The JSC has adopted this proposal in part as follows:

—R.C.M. 703(g)(3)(C)(2) is new and reads as follows:

''(2) *Subpoenas for personal or confidential information about a victim.* After preferral, a subpoena requiring the production of personal or confidential information about a victim named in a specification may be served on an individual or organization by those authorized to issue a subpoena under subparagraph (D) or with the consent of the victim. Before issuing a subpoena under this subparagraph and unless there are exceptional circumstances, the victim must be given notice so that the victim can move for relief under subparagraph (g)(3)(G) or otherwise object.''

f. A comment was received suggesting the addition of a new M.R.E. 501(e) limiting the Government to privileges identified in M.R.E. 505, 506, and 507. These suggested changes were not incorporated; however, the JSC reviewed M.R.E. 505, 506, and 507 and made the following proposed change to M.R.E. 506.

—M.R.E. 506(b) is amended to read as follows:

''(b) Scope. ''Government information'' includes official communication and documents and other information within the custody or control of the Federal Government. This rule does not apply to the identity of an informant (Mil. R. Evid. 507).''

g. Comments concerning the proposed changes to M.R.E. 412(c)(3) were received. The JSC considered all comments. As prescribed by the President, upon the effective date of the Executive Order, M.R.E. 412(c)(3) will provide:

''(3) If the military judge determines on the basis of the hearing described in paragraph (2) of this subdivision that the evidence that the accused seeks to offer is relevant for a purpose under subdivision (b)(1) or (2) of this rule and that the probative value of such evidence outweighs the danger of unfair prejudice to the victim's privacy, or that the evidence is described by subdivision (b)(3) of this rule, such evidence shall be admissible under this rule to the extent an order made by the military judge specifies evidence that may be offered and areas with respect to which the victim may be examined or cross-examined. Any evidence introduced under this rule is subject to challenge under Mil. R. Evid. 403.''

h. Comments were received suggesting additional changes to, R.C.M. 1103A in Annex 1 and R.C.M. 103, 110, 305, 405, 701, 705, 809, 910, 1109, 1114, 1202 in Annex 2. These suggested changes were not incorporated.

i. Comments suggesting changes to M.R.E. 505 were received. Suggested changes were not incorporated.

j. Comments were received suggesting the addition of new punitive articles, elimination of certain defenses, and changes to the terminal element of Article 134. These suggested changes were not incorporated.

Dated: May 7, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–09949 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Threat Reduction Advisory Committee (''the Committee'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Committee provides the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Acquisition, and Sustainment, independent advice and recommendations on matters relating to combating Weapons of Mass Destruction (WMD). The Committee shall be composed of no more than 25 members who are eminent authorities in the fields of national defense, geopolitical and national security affairs, WMD, nuclear physics, chemistry, and biology. Members who are not full-time or permanent part-time Federal officers or employees are appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members who are full-time or permanent part-time Federal officers or employees are appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee members. Each member is appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Committee-related travel and per diem, members serve without compensation. The DoD, as necessary and consistent with the Committee's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Committee, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Committee and must report all recommendations and advice solely to the Committee for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Committee. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Committee's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Committee/subcommittee meeting. The public or interested organizations may submit written statements to the Committee membership about the Committee's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Committee meetings. All written statements must be submitted to the Committee's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: May 17, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–10952 Filed 5–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Wednesday, June 6, 2018, 8:30 a.m.–5:00 p.m.

Thursday, June 7, 2018, 8:30 a.m.–12:00 p.m.

ADDRESSES: Red Lion Hanford House, 802 George Washington Way, Richland, WA 99352.

FOR FURTHER INFORMATION CONTACT: Mark Heeter, Federal Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, H5–20, Richland, WA 99352; Phone: (509) 373–1970; or Email: *mark.heeter@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Potential Draft Advice
  - Remediation of 100–B/C Areas
- Discussion Topics
  - Tri-Party Agreement Agencies' Updates
  - Draft Letter to the Department on Fiscal Year 2020 Budget
  - Hanford Advisory Board Proposed Work Plan for 2019
  - Hanford Advisory Board Committee Reports
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, 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 Mark Heeter at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mark Heeter at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Mark Heeter's office at the address or phone number listed above. Minutes will also be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Issued at Washington, DC, on May 18, 2018.

Latanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–11048 Filed 5–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 13, 2018, 6:00 p.m.

ADDRESSES: Department of Energy Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; Email: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Public Comment Period
- Presentation: Mercury Treatment
- Motions/Approval of April 11, 2018 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The EM SSAB, Oak Ridge, 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 Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Issued at Washington, DC, on May 17, 2018.

Latanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–11014 Filed 5–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 18–26–LNG]

Freeport LNG Expansion, L.P. and FLNG Liquefaction 4, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on March 6, 2018, by Freeport LNG Expansion, L.P. and FLNG Liquefaction 4, LLC (collectively, FLEX4). The Application requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to 262.8 billion cubic feet (Bcf) per year (0.72 Bcf per day) of natural gas. FLEX4 seeks to export this LNG from the proposed Train 4 Project, to be constructed at the Freeport LNG Terminal on Quintana Island near Freeport, Texas. FLEX4 states that its affiliates (Freeport LNG Development, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC) are currently constructing a liquefaction and export facility at the Terminal with three previously-authorized liquefaction trains. FLEX4 requests authorization to export the LNG to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). FLEX4 seeks to export this LNG on its own behalf and as agent for other entities who hold title to the natural gas at the time of export. FLEX4 requests the authorization for a 20-year term to commence on the earlier of the date of first commercial export from the Train 4 Project, or seven years from the issuance of the requested authorization. FLEX4 filed the Application under section 3 of the Natural Gas Act (NGA). Additional details can be found in FLEX4's Application, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2018/04/f50/18-26-LNG_T4_0.pdf.* Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, July 23, 2018.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Kyle W. Moorman or Larine Moore; U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7970; (202) 586–9478.

Cassandra Bernstein or Ronald (R.J.) Colwell, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–8499.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. In reviewing this Application, DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of exporting domestically produced LNG:

- *Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets,* conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study); [1] and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports,* conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study).[2]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [3] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States,* 79 FR 32260 (June 4, 2014).[4]

Parties that may oppose this Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 18–26–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 18–26–LNG. **Please Note:** If submitting a filing via email, please include all

[1] The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: *https://www.eia.gov/analysis/requests/fe/.*

[2] The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: *http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.*

[3] The Addendum and related documents are available at: *https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf.*

[4] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on May 16, 2018.

Amy Sweeney,

Director, Division of Natural Gas Regulation, Office of Fossil Energy.

[FR Doc. 2018–11013 Filed 5–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–19–000; Docket No. OR17–11–000]

West Texas LPG Pipeline Limited Partnership; Wood River Pipe Lines LLC; Notice of Designation of Commission Staff as Non-Decisional

With respect to the proceedings pending before the Commission in the above-captioned dockets, Dr. Emma Nicholson from the Office of Energy Policy and Innovation is designated as non-decisional in deliberations by the Commission in these dockets. Accordingly, pursuant to 18 CFR 385.2202 (2017), as non-decisional staff, Dr. Nicholson will not participate in an advisory capacity in the Commission's review of any future filings in the above-referenced dockets, including offers of settlement or settlement agreements. Likewise, pursuant to 18 CFR 385.2201 (2017), Dr. Nicholson is prohibited from communicating with advisory staff concerning any deliberations in these dockets.

Dated: May 16, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11046 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI18–3–000]

Notice Denying Late Intervention; Renewable Energy Aggregators Inc.

On March 29, 2018, the Commission issued public notice of Merchant Hydro Developers LLC's [1] Declaration of Intention concerning the proposed Vandling Drift Reclamation Pump Storage Project, to be located near the City of Vandling in Wayne County, Pennsylvania. The notice established April 30, 2018, as the deadline to file motions to intervene.[2] On May 14, 2018, the Delaware Riverkeeper Network (Delaware Riverkeeper) filed an out-of-time motion to intervene.

In determining whether to grant a late motion to intervene, the Commission may consider such factors as whether the movant had good cause for filing late; whether the movant's interest is adequately represented by other parties to the proceeding; and whether granting the intervention might result in disruption to the proceeding or prejudice to other parties.[3] Movants for late intervention must, among other things, demonstrate good cause why the time limit should be waived.[4]

Here, Delaware Riverkeeper failed to demonstrate that good cause exists to grant its motion to intervene out of time. In its motion, Delaware Riverkeeper provides no explanation as to why it was unable to intervene in a timely manner or why good cause exists to waive the time limit. Therefore, Delaware Riverkeeper's motion to intervene is denied.

This notice constitutes final agency action. Requests for rehearing of this notice must be filed within 30 days of the date of issuance of this notice, pursuant to section 313(a) of the Federal Power Act, 16 U.S.C. 825*l*(a) (2012), and Rule 713 of the Commission's Rules of Practice and Procedure, 18 CFR 385.713 (2017).

Dated: May 16, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11041 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

[1] On May 10, 2018, Merchant Hydro Developers, LLC notified the Commission that it had changed its name to Renewable Energy Aggregators Inc.

[2] The Commission's Rules of Practice and Procedure provide that, if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is not open for business, the filing deadline does not end until the close of business on the next business day. 18 CFR 385.2007(a)(2) (2017). The filing deadline was 30 days from issuance of the notice (*i.e.,* April 28, 2018), which fell on a Saturday, thus the filing deadline was the close of business on Monday, April 30, 2018.

[3] *Id.* 385.214(d).

[4] *Id.* 385.214(b)(3).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD18–13–000]

Notice of Availability of the New Engineering Guidelines for the Evaluation of Hydropower Projects: Chapter 12—Water Conveyance and Request for Comments

The staff of the Office of Energy Projects (OEP) have drafted its initial version of ''Chapter 12—Water Conveyance'' of its *Engineering Guidelines for the Evaluation of Hydropower Projects.* Comments are now requested on the draft document from federal and state agencies, licensees whose infrastructure portfolio includes penstocks, canals, flumes and tunnel to convey water, independent consultants and inspectors, and other interested parties with special expertise with respect dam safety. A 60-day public comment period is allotted to collect comments. Please note that this comment period will close on July 16, 2018.

Interested parties can help us determine the appropriate updates and improvements by providing: Meaningful comments or suggestions that focus on the specific sections requiring clarification; updates to reflect current laws and regulations; or improved

measures for evaluating the safety of water conveyances. The more specific your comments, the more useful they will be. A detailed explanation of your submissions and/or any references of scientific studies associated with your comments will greatly help us with this process. We will consider all timely comments on the revised *Guidelines* before issuing the final version.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the docket number (AD18–13–000) on the first page of your submission. The Commission strongly encourages electronic filing.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments up to 6,000 characters. You must include your name and contact information at the end of your comments;

(2) You can file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' When selecting the filing type, select ''General'', then chose ''Comment (on Filing, Environ. Report or Tech Conf)''; or

(3) In lieu of electronic filing, you can mail a paper copy of your comments to: Kimberly D. Bose, Secretary Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

The OEP staff provided copies of ''Chapter 12—Water Conveyance'' to federal and state agencies, licensees whose portfolio includes penstocks, canals, flumes and tunnel to convey water, independent consultants and inspectors, and other interested parties. In addition, all information related to ''Chapter 12—Water Conveyance'' and submitted comments can be found on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* AD18–13). Be sure you have selected an appropriate date range. The Commission also offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with electronic notification of these filings and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.* Users must be registered in order to use eSubscription.

For assistance with filing or any of the Commission's online systems, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8258.

Dated: May 17, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11047 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8436–000]

Notice of Supplemental Filing: Kipp, Mary E.

Take notice that on May 10, 2018, Mary E. Kipp filed a supplement to the April 27, 2018 filing application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 18 U.S.C. 825d(f), and section 45.8 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR 45.8.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 31, 2018.

Dated: May 16, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11044 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–150–000]

Notice of Complaint: Monterey MA, LLC v. PJM Interconnection, LLC

Take notice that on May 15, 2018, pursuant to sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824e, 825e, and 825h and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2018), Monterey MA, LLC (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) alleging that Respondent is improperly adjusting prices *ex post facto* for unauthorized reasons, and without providing proper notice and documentation to its market participants, in violation of its tariff as well as section 205, and engaging in unduly discriminatory and/or preferential behavior by denying Complainant's request for arbitration, as more fully explained in the complaint.

Complainant certifies that a copy of the complaint was served on Respondent via electronic mail.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date.

The Respondents' answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 4, 2018.

Dated: May 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10998 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–817–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Footprint Amended NRA 510814 to be effective 6/1/2018.
Filed Date: 5/16/18.
Accession Number: 20180516–5018.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: RP18–818–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2018 Mid-May Negotiated Rates to be effective 5/17/2018.
Filed Date: 5/16/18.
Accession Number: 20180516–5062.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: RP18–819–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Update Filing (TGS May 18) to be effective 5/19/2018.
Filed Date: 5/16/18.
Accession Number: 20180516–5082.
Comments Due: 5 p.m. ET 5/29/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10997 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–92–000.
Applicants: Mesquite Power, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Requests for Expedited Action and Confidential Treatment of Mesquite Power, LLC.
Filed Date: 5/16/18.
Accession Number: 20180516–5140.
Comments Due: 5 p.m. ET 6/6/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2895–017; ER10–2917–017; ER10–2918–018 ER10–2920–017; ER10–2921–017; ER10–2922–017 ER10–2966–017; ER10–3167–009; ER11–2292–018 ER11–2293–018; ER11–2294–016; ER11–2383–012 ER11–3941–015; ER11–3942–017; ER12–2447–016 ER13–1613–010; ER13–203–009; ER13–2143–010 ER14–1964–008; ER16–287–003; ER17–482–002.
Applicants: Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings LLC, BIF III Holtwood LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, BREG Aggregator LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, LLC, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation.
Description: Second Supplement to June 30, 2017 Updated Market Power Analysis for the Northeast Region of the Brookfield Companies.
Filed Date: 5/16/18.
Accession Number: 20180516–5145.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: ER17–603–001.
Applicants: Bear Swamp Power Company LLC.
Description: Supplement to February 20, 2018 Compliance Filing of Updated Market Power Analysis of Bear Swamp Power Company LLC.
Filed Date: 5/16/18.
Accession Number: 20180516–5131.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: ER18–1648–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–05–16_Filing to establish Time Limits for Disputes and Resettlements to be effective 8/1/2018.
Filed Date: 5/16/18.
Accession Number: 20180516–5119.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: ER18–1649–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: § 205(d) Rate Filing: NSPM–SIOUX–I–I–Agrmt–484–0.0.0 to be effective 1/1/2018.
Filed Date: 5/16/18.
Accession Number: 20180516–5121.
Comments Due: 5 p.m. ET 6/6/18.

Docket Numbers: ER18–1650–000.
Applicants: WSPP Inc.
Description: § 205(d) Rate Filing: List of Members Update 2018 to be effective 3/26/2018.
Filed Date: 5/17/18.
Accession Number: 20180517–5003.
Comments Due: 5 p.m. ET 6/7/18.

Docket Numbers: ER18–1651–000.
Applicants: Solano 3 Wind LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 5/17/2018.

Filed Date: 5/17/18.
Accession Number: 20180517–5004.
Comments Due: 5 p.m. ET 6/7/18.

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 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10996 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–151–000]

Notice of Petition for Partial Waiver: Minnkota Power Cooperative, Inc.; Northern Municipal Power Agency

Take notice that on May 16, 2018, pursuant to section 292.402 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR 292.402, Minnkota Power Cooperative, Inc. (Minnkota) and Northern Municipal Power Agency (Agency) on behalf of themselves, Minnkota's 11 rural electric cooperative member-owners (collectively, the Members) and 10 of Agency's 12 municipal members (collectively, the Municipals), filed a petition for partial waiver of certain obligations imposed on Minnkota, Agency, the Members, and the Municipals under sections 292.303(a) and 292.303(b) of the Commission's Regulations [1] implementing section 210 of the Public Regulatory Policies Act of 1978, as amended, all as more fully explained in its petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 6, 2018.

Dated: May 17, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11042 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 292.303(a) and 292.303(b).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5728–020]

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process; Sandy Hollow Power Company, Inc.

a. *Type of Application:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 5728–020.

c. *Date Filed:* February 12, 2018.

d. *Submitted by:* Sandy Hollow Power Company, Inc.

e. *Name of Project:* Sandy Hollow Hydroelectric Project.

f. *Location:* Located on the Indian River in Philadelphia, Jefferson County, New York. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Richard Ely, Principal, 27264 Meadowbrook Drive Davis, CA 95618, Phone: (613) 225–0418, Email: *dick@davishydro.com.*

i. *FERC Contact:* Brandi Sangunett, Phone: (202) 502–8393, Email: *brandi.sangunett@ferc.gov.*

j. Sandy Hollow Power Company, Inc. filed its request to use the Traditional Licensing Process on February 12, 2018. Sandy Hollow Power Company, Inc. provided public notice of its request on April 4, 2018. In a letter dated May 16, 2018, the Director of the Division of Hydropower Licensing approved Sandy Hollow Power Company, Inc.'s request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Office, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Sandy Hollow Power Company, Inc. as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Sandy Hollow Power Company, Inc. filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at

FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 5728. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 2021.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: May 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–11000 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1954–000]

Notice of Request To Vacate Order: Athens Energy, LLC

Take notice that on May 3, 2018, Athens Energy, LLC, filed a request To vacate the August 25, 2017 Letter Order Accepting for filing the Notice of Cancellation of its Market-Based Rate Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on June 7, 2018.

Dated: May 17, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–11043 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–1641–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; Realgy, LLC

This is a supplemental notice in the above-referenced proceeding of Realgy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 6, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 17, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10999 Filed 5–22–18; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2018.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *First Paragould Bankshares, Inc., Paragould, Arkansas;* to acquire 100 percent of the voting shares of One Bank & Trust, National Association, Little Rock, Arkansas.

Board of Governors of the Federal Reserve System, May 17, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–10957 Filed 5–22–18; 8:45 am]

BILLING CODE 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 June 7, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Patsy Ruth Davenport and David Mark Davenport, individually, of Oklahoma City, Oklahoma,* to retain control of Quail Creek Bancshares, Inc., Oklahoma City, Oklahoma. In addition, *the GST Exemption Residuary Share Trust, the Patsy Ruth Davenport Non-Exempt QTIP Trust, the Patsy Ruth Davenport GST Exempt QTIP Trust, the QCB Separate Share Trust f/b/o Mark Davenport, the QCB Separate Share Grandchild's Trust f/b/o Ashley Davenport, the QCB Separate Share Grandchild's Trust f/b/o Christina Davenport, the QCB Separate Share Grandchild's Trust f/b/o Lindsey Duran, the QCB Separate Share Grandchild's Trust f/b/o Alexis Lavender, David Mark Davenport, individually and as trustee of the GST Exemption Residuary Share Trust, the Patsy Ruth Davenport Non-Exempt QTIP Trust, and the Patsy Ruth Davenport GST Exempt QTIP Trust, Patsy Ruth Davenport, as trustee of the GST Exemption Residuary Share Trust, the Patsy Ruth Davenport Non-Exempt QTIP Trust, and the Patsy Ruth Davenport GST Exempt QTIP Trust, and Richard Allen Goranson, as trustee of the QCB Separate Share Trust f/b/o Mark Davenport, the QCB Separate Share Grandchild's Trust f/b/o Ashley Davenport, the QCB Separate Share Grandchild's Trust f/b/o Christina Davenport, the QCB Separate Share Grandchild's Trust f/b/o Lindsey Duran, and the QCB Separate Share Grandchild's Trust f/b/o Alexis Lavender, all of Oklahoma City, Oklahoma as a group acting in concert;* to acquire voting shares of Quail Creek Bancshares, Inc., Oklahoma City, Oklahoma, and thereby acquire shares of Quail Creek Bank, National Association, of Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, May 17, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–10958 Filed 5–22–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

Agenda

Federal Retirement Thrift Investment Joint Board Member/ETAC Meeting, 77 K Street NE, 10th Floor, Washington, DC 20002, May 30, 2018, 8:30 a.m. (In-Person).

Open Session

1. Approval of the Minutes of the April 23, 2018 Board Member Meeting
2. Approval of the Minutes of the November 8, 2017 ETAC Meeting
3. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Policy
   (c) Legislative Report
4. Quarterly Reports
   (d) Metrics
   (e) Project Activity
5. IT Update
6. Withdrawals Project Update
7. Office of Communications and Education Annual Report

Closed Session

Information covered under 5 U.S.C. 552b (c)(9)(B).

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: May 21, 2018.

Dharmesh Vashee,

Deputy General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2018–11206 Filed 5–21–18; 4:15 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–P–0015A]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by June 22, 2018.

ADDRESSES: When commenting on the proposed information collections,

please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey; *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also aims to put patients first in the delivery of their health care needs.

The Medicare Current Beneficiary Survey (MCBS) is the most comprehensive and complete Survey available on the Medicare population and is essential in capturing data not otherwise collected through our operations. The MCBS is an in-person, nationally-representative, longitudinal survey of Medicare beneficiaries that we sponsor and is directed by the Office of Enterprise Data and Analytics (OEDA). The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with our administrative data (*e.g.,* fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 25 years, encompassing over 1 million interviews and more than 100,000 survey participants. Respondents participate in up to 11 interviews over a three and a half year period. This gives a comprehensive picture of health care costs and utilization over a period of time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and our external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2019, this proposed revision to the clearance will eliminate or streamline some questionnaire sections, add a few new measures, take advantage of administrative data to reduce the number of survey questions in some long term care facilities, and discontinue the 12th interview as had previously been collected. The revisions will result in an overall reduction in respondent burden by 25%. *Form Number:* CMS–P–0015A (OMB control number: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 14,146; *Total Annual Responses:* 37,407; *Total Annual Hours:* 44,817. (For policy questions regarding this collection contact William Long at 410–786–7927.)

Dated: May 18, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–11056 Filed 5–22–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Food and Drug Administration

[Docket No. FDA–2010–D–0509]

Enforcement Policy—Over-the-Counter Sunscreen Drug Products Marketed Without an Approved Application; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Enforcement Policy—OTC Sunscreen Drug Products Marketed Without an Approved Application.'' This guidance describes FDA's approach to enforcement for over-the-counter (OTC) sunscreen products marketed without approved applications before a final OTC sunscreen drug monograph becomes effective. This guidance finalizes the draft guidance of the same name issued June 17, 2011.

DATES: The announcement of the guidance is published in the **Federal Register** on May 23, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or

confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–D–0509 for ''Enforcement Policy—Over-the-Counter Sunscreen Drug Products Marketed Without an Approved Application; Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Kristen Hardin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5443, Silver Spring, MD 20993–0002, 240–402–4246.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Enforcement Policy—OTC Sunscreen Drug Products Marketed Without an Approved Application.'' This guidance applies to OTC sunscreen products marketed without approved applications and describes FDA's approach to enforcement for these products until a final OTC sunscreen monograph becomes effective. This guidance finalizes a draft guidance that was issued under the same title on June 17, 2011 (76 FR 35665) and reflects FDA's consideration of public comments on the draft guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on the enforcement policy for OTC sunscreen drug products marketed without an approved application. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) and under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 201.327 and 201.66, and 21 CFR part 330 have been approved under OMB control numbers 0910–0717, 0910–0340, and 0910–0688, respectively.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: May 17, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10994 Filed 5–22–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1456]

Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations.'' This draft guidance addresses FDA's current thinking on the conduct of in vivo absorption trials for topical active ingredients that are under

consideration for inclusion in an over-the-counter (OTC) monograph.

DATES: Submit either electronic or written comments on the draft guidance by July 23, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–1456 for ''Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Kristen Hardin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5443, Silver Spring, MD 20993–0002, 240–402–4246.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations.'' This draft guidance addresses the current thinking of FDA on the conduct of in vivo absorption trials for topical active ingredients that are under consideration for inclusion in an OTC monograph. A Maximal Usage Trial (MUsT) is a standard approach to assessing the in vivo bioavailability of topical drug products. The methodology described in this draft guidance adapts MUsT principles for active ingredients being considered for inclusion in an OTC monograph. Because information from a MUsT can help identify the potential for systemic exposure to a topically applied active ingredient, such information can help inform an FDA determination of whether additional safety data are needed to support a finding that an OTC drug containing that active ingredient is generally recognized as safe and effective for its intended use.

This draft guidance was written in response to comments submitted to Docket No. FDA–2015–D–4021 for the draft guidance entitled ''Over-the-Counter Sunscreens: Safety and Effectiveness Data'' (80 FR 72975, November 23, 2015) and the final guidance that replaced it, entitled ''Nonprescription Sunscreen Drug Products—Safety and Effectiveness Data'' (81 FR 84594, November 23, 2016), requesting that FDA provide further guidance and details on the MUsT. It provides additional information on the study elements, data analysis, and considerations when designing a MUsT for a topical active ingredient being considered for inclusion in an OTC monograph.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Maximal Usage Trials for Topical Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies

the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance contains collections of information that are exempt from the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). Section 586D(a)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff–4(a)(1)(C)) as amended by the Sunscreen Innovation Act states that the PRA shall not apply to collections of information made for purposes of guidance under that subsection.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: May 17, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10993 Filed 5–22–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Enhancement and Update of the National HIV Curriculum e-Learning Platform

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of a single source award.

SUMMARY: HRSA's HIV/AIDS Bureau (HAB) intends to issue a single source award to the University of Washington for $300,000 for activities authorized under Section 2692(a) of the Public Health Service (PHS) Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009. This notice is subject to the appropriation of funds and is a contingency action taken to ensure that, should funds become available for this purpose, HRSA can award funds in a timely manner.

Subject to the availability of funds and the University of Washington's satisfactory performance, HAB will also issue non-competitive, single source awards of $300,000 each in fiscal years (FYs) 2019 to 2022. This will allow the University of Washington to update and enhance the National HIV Curriculum (NHC) and the electronic platform that supports it, and to keep pace with the latest HIV science, federal guidelines, and treatment protocols and practices for educating health professionals on the optimal care and treatment of people living with HIV over its four-year project period.

FOR FURTHER INFORMATION CONTACT: Sherrillyn Crooks, Chief, HIV Education Branch, Office of Training and Capacity Development, HAB/HRSA, 5600 Fishers Lane, Room 9N110, Rockville, MD 20857, by email at *scrooks@hrsa.gov* or by phone at (301) 443–7662.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The University of Washington.

Period of Supplemental Funding: September 1, 2018–August 31, 2022.

Funding Amount: Subject to the availability of appropriated funds, $300,000 each in FY 2018 to FY 2022.

Authority: Section 2692(a) of the Public Health Service (PHS) Act (42 U.S.C. 300ff–111(a)) and section 2693 of the PHS Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. 111–87).

CFDA Number: 93.145.

Justification: The *Enhancement and Update of the National HIV Curriculum e-Learning Platform* project responds to the need to update and enhance the NHC and the electronic platform that supports it, and to keep pace with the latest HIV science, federal guidelines, treatment protocols, and practices for educating health professionals on the optimal care and treatment of people living with HIV (PLWH). With the ultimate goal of addressing the shortage of health professionals who care for people living with or who are at risk for HIV (PLWH), the University of Washington convened a multidisciplinary panel of clinical and learning technology experts under the auspices of the AIDS Education and Training Centers Program network, to create the national HIV curriculum. Released in July 2017, this free, online curriculum targets multidisciplinary novice-to-expert health professionals, students, and faculty who treat or aspire to treat PLWH. As the developer and proprietor of the NHC, the University of Washington is the only entity suitable for receiving a single source award to accomplish the critical task of ensuring that the NHC remains a relevant and important tool to educate HIV care providers in the United States.

Throughout the period of performance, the University of Washington will work in close coordination with recipients of awards under Notice of Funding Opportunity HRSA–18–045, *Integrating the National HIV Curriculum e-Learning Platform into Health Care Provider Professional Education.* Recipients under HRSA–18–045 will be collaborating with multiple health professions' academic and training institutions to incorporate the NHC into their curricula, including activities to train and orient faculty on effective methods to integrate the NHC. Though the University of Washington will gather feedback on the NHC from a wide variety of users, a collaboration with recipients under HRSA–18–045 will facilitate consistent collection, in real time, of integration practices that are proving most effective, and discussion of recommendations for disseminating those practices. This collaboration will influence and inform enhancements to the NHC e-Learning platform and further HRSA's goal to ensure that health professions academic and training institutions routinely use this state-of-the-art curriculum thus increasing the number of competent HIV treatment providers.

Dated: May 17, 2018.

George Sigounas,

Administrator.

[FR Doc. 2018–11033 Filed 5–22–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Correction

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice; correction.

SUMMARY: HRSA is correcting a notice published in the September 26, 2017 issue of the **Federal Register** entitled Improving Care for Children and Youth—Incentive Prize. This correction amends the subject of the challenge and the timeline. Please note, however, that this correction notice, along with future updates, as needed and pursuant to recent changes to the applicable law, will be posted on *challenge.gov* and *mchbgrandchallenges.hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Jessie Buerlein, Public Health Analyst, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20852, *jbuerlein@hrsa.gov,* 301–443–8931.

Correction

In the **Federal Register** at 82 FR 44812 (September 26, 2017) please make the

following corrections: In the Summary section, correct estimated dates of each phase to read:

Estimated dates for each phase are as follows:

Phase 1: Effective September 2018
Phase 1: Submission ends December 2018
Phase 1: Judging Period: December 2018–January 2019
Phase 1: Winners Announced January 2019
Phase 2: Begins February, 2019
Phase 2: Submission Period Ends: July, 2019
Phase 2: Judging Period: July 2019
Phase 2: Winners Announced August 2019
Phase 3: Begins August 2019
Phase 3: Submission Period Ends: December 2019
Phase 3: Winner Announced January 2020

In the Subject of Challenge Competition section, change to:

MCHB is sponsoring the Preventing Opioid Misuse in Pregnant Women and New Moms Challenge. Along with the general population, there has been a rapid rise in opioid use among pregnant women in recent years resulting in a surge of infants born with Neonatal Abstinence Syndrome (NAS), increasing nearly fivefold nationally between 2000 and 2012.[1] This increase has led to rising costs of care and gaps in services for this population. Medicaid payments to hospitals for NAS treatment services have increased from about $564 million to $1.2 billion nationwide, with more than 80 percent of NAS cases paid for by Medicaid.[2] Despite this rising need, availability of services for pregnant and postpartum women is limited.

Pregnant women, new mothers, and families who struggle with opioid use disorders (OUD) face a variety of barriers in obtaining safe and effective treatment and care. Barriers include:

- Limited access to substance use disorder (SUD) treatment and recovery services;
- limited access to care and long-term supports for infants born with (NAS);
- limited access to family-centered recovery approaches, including co-located treatment and child care support;
- significant stigma;
- obstacles within the criminal justice system; and
- limited access to trauma-informed care.

Women living in rural and geographically isolated areas often face additional barriers with accessing limited services and coordination.

Family-centered approaches to recovery address many of the barriers to care that women and families face. Research shows that women are more likely to seek and stay in treatment longer if they are able to maintain their caregiving role while in treatment, as well as either stay within the same treatment services or retain relationships with treatment providers throughout the provision of services.[3]

This challenge will improve access to quality health care, including SUD treatment, recovery and support services for pregnant women with OUD, their infants, and families, especially those in rural and geographically isolated areas. Innovators will develop ideas, tools, and/or platforms, to address as many of the barriers that limit access to quality treatment, care and support services for those with OUD, including pregnant women and new mothers.

Dated: May 17, 2018.

George Sigounas,

Administrator.

[FR Doc. 2018–11032 Filed 5–22–18; 8:45 am]

BILLING CODE 4165–15–P

[1] Patrick, Davis, Lehmann & Cooper, 2015.

[2] *https://www.gao.gov/assets/690/687580.pdf.*

[3] *https://www.womenshealth.gov/files/documents/final-report-opioid-508.pdf.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the National Advisory Council on the National Health Service Corps

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates for consideration for appointment as members of the National Advisory Council on the National Health Service Corps (NACNHSC). NACNHSC advises the Secretary of HHS and, by designation, HRSA's Administrator on the priorities and policies impacting the National Health Service Corps (NHSC) and provides specific recommendations for policy revisions.

DATES: The agency will receive nominations on a continuous basis.

ADDRESSES: Nomination packages may be mailed to Advisory Council Operations, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15W09D, Rockville, Maryland 20857 or submitted electronically by email to: *BHWAdvisoryCouncilFRN@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Diane Fabiyi-King, Designated Federal Official, NACNHSC at (301) 443–3609 or email at *dfabiyi-king@hrsa.gov.* Interested parties may obtain a copy of the current committee membership, charter, and reports by accessing the website *http://nhsc.hrsa.gov/corpsexperience/aboutus/nationaladvisorycouncil/index.html.*

SUPPLEMENTARY INFORMATION: NACNHSC consists of 15 members selected by the HHS Secretary who are knowledgeable in the recruitment and retention of providers in communities with a shortage of primary care professionals. Meetings take place up to four times a year.

Nominations: HRSA is requesting nominations for voting members of NACNHSC representing the areas of primary care, dental health, and mental health. In particular, NACNHSC is seeking nominations with demonstrated expertise in the following areas: Working with underserved populations, health care policy, recruitment and retention, site administration, customer service, marketing, organizational partnerships, research, or clinical practice. HRSA is seeking nominees that either are currently or have previously been site administrators, physicians, dentists, mid-level professionals (*i.e.,* nurses, physician assistants), mental or behavioral health professionals, or NHSC scholars or loan repayors who have the expertise described above.

The Secretary of HHS will consider nominations of all qualified individuals within the areas of subject matter expertise noted above. In making such appointments, the Secretary shall ensure a broad geographic representation of members and a balance between urban and rural educational settings.

Individuals, professional associations, and organizations may nominate one or more qualified persons for membership. NACNHSC members are appointed as Special Government Employees and receive a stipend and reimbursement for per diem and travel expenses incurred for attending meetings and/or conducting other business on behalf of NACNHSC, as authorized by Section 5 U.S.C. 5703 for persons employed intermittently in government service.

To evaluate possible conflicts of interest, individuals selected for consideration for appointment will be required to provide detailed information regarding their financial holdings,

consultancies, and research grants or contracts. The selected candidates must fill out the U.S. Office of Government Ethics (OGE) Confidential Financial Disclosure Report, OGE Form 450. Disclosure of this information is necessary to determine if the selected candidate is involved in any activity that may pose a potential conflict with their official duties as a member of the committee.

A nomination package should include the following information for each nominee: (1) A letter of nomination from an employer, a colleague, or a professional organization stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of the NACNHSC, and the nominee's field(s) of expertise); (2) a letter of interest from the nominee stating the reasons they would like to serve on the NACNHSC; (3) a biographical sketch of the nominee, a copy of his/her curriculum vitae, and his/her contact information (address, daytime telephone number, and email address); and (4) the name, address, daytime telephone number, and email address at which the nominator can be contacted.

HRSA will collect and retain nomination packages to create a pool of possible future NACNHSC voting members. When a vacancy occurs, the agency will review nomination packages from the appropriate category and may contact nominees at that time. Nominations should be updated and resubmitted every 4 years to continue to be considered for committee vacancies.

HHS strives to ensure a balance of the membership of NACNHSC in terms of points of view presented and the committee's function and makes every effort to ensure the representation of women, all ethnic and racial groups, and people with disabilities on HHS Federal Advisory Committees. Therefore, we encourage nominations of qualified candidates from these groups and endeavor to make appointments to NACNHSC without discrimination on basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

Authority: Section 337 of the Public Health Service Act (42 U.S.C. 254j), as amended. NACNHSC is governed by provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets for the formation and use of advisory committees, and applies to the extent that the provisions of FACA do not conflict with the requirements of PHSA Section 337.

Dated: May 17, 2018.

Jay Womack,

Acting Deputy Director, Division of Executive Secretariat.

[FR Doc. 2018–11034 Filed 5–22–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5173–N–17]

Affirmatively Furthering Fair Housing: Withdrawal of the Assessment Tool for Local Governments

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: HUD announces the withdrawal of the Local Government Assessment Tool developed by HUD for use by local governments that receive Community Development Block Grants, HOME Investment Partnerships Program, Emergency Solutions Grants, or Housing Opportunities for Persons With AIDS formula funding from HUD when conducting and submitting their own Assessment of Fair Housing (AFH) under the Affirmatively Furthering Fair Housing (AFFH) regulations. Through **Federal Register** notice published on January 13, 2017, HUD announced the Office of Management and Budget's renewed approval of the Assessment Tool under the Paperwork Reduction Act. Since that time, HUD has become aware of significant deficiencies in the Tool impeding completion of meaningful assessments by program participants. HUD therefore is withdrawing the Local Government Assessment Tool because it is inadequate to accomplish its purpose of guiding program participants to produce meaningful AFHs. Following this withdrawal of the Local Government Assessment Tool, HUD will review the Assessment Tool and its function under the AFFH regulations to make it less burdensome and more helpful in creating impactful fair housing goals. Accordingly, this withdrawal notice also solicits comments and suggestions geared to creating a less burdensome and more helpful AFH Tool for local governments.

DATES:

Applicability Date: May 23, 2018.

Comment Due Date: Comments on improvement to the AFH Tool for Local Governments are due on or before July 23, 2018.

ADDRESSES: Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410–0001. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Comments. All comments and communications submitted to HUD will be available, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and

downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Krista Mills, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, Office Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5246, Washington, DC 20410; telephone number 202–402–6577. Individuals with hearing or speech impediments may access this number via TTY by calling the toll-free Federal Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2015, HUD published in the **Federal Register** its Affirmatively Furthering Fair Housing (AFFH) final rule.[1] The AFFH final rule provided HUD program participants with a revised planning approach to assist them in meeting their legal obligation to affirmatively further fair housing. The AFFH regulations are codified in 24 CFR part 5, subpart A.[2]

To assist program participants, the revised approach involves an ''Assessment Tool'' for use in completing the regulatory requirement to conduct an assessment of fair housing (AFH), as set out in the AFFH rule. Because of the variations in the HUD program participants subject to the AFFH rule, HUD has been developing separate Assessment Tools for use by different types of program participants. In addition to Assessment Tools for use by public housing agencies (PHAs) and States and Insular Areas, there is one for local governments, which is the subject of this notice. It is called the Local Government Assessment Tool. All the Assessments Tools, because they are information collection documents, are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA).[3]

The Local Government Assessment Tool was developed by HUD for use by local governments that receive Community Development Block Grants, HOME Investment Partnerships Program, Emergency Solutions Grants, or Housing Opportunities for Persons With AIDS formula funding from HUD, when conducting and submitting their AFH. OMB granted PRA approval of the initial iteration of the Local Government Assessment Tool in December 2015, and HUD announced the approval and the availability of the Tool's use by notice published in the **Federal Register** on December 31, 2015.[4] The initial iteration of the Local Government Assessment Tool (known as ''LG2015'') was approved by OMB for a period of one year. In 2016, HUD began the process for renewed approval of that information collection device.

The PRA establishes a notice and comment process for information collection approvals, involving the publication of two **Federal Register** notices, one for 60 days of public comments and another for a 30-day comment period.[5] HUD's 60-day notice for renewed approval of the Local Government Assessment Tool was published on March 23, 2016.[6] The 30-day notice was published on August 23, 2016, and addressed the significant issues raised by the comments received on the 60-day notice.[7]

HUD announced the renewed PRA approval by OMB of a Local Government Assessment Tool through **Federal Register** notice published on January 13, 2017.[8] In addition to announcing the PRA approval of the Tool, the January 13, 2017, notice addressed the significant issues raised by the comments received in response to the 30-day notice. This current version of the Tool, which is the subject of this notice, is known as ''LG2017.''[9]

II. This Notice—Withdrawal of the Local Government Assessment Tool

Through this notice, HUD announces its withdrawal of the current version of the Local Government Assessment Tool (OMB Control No: 2529–0054). As noted above, the PRA establishes a notice-and-comment process for information collection approvals, but not for withdrawals. Accordingly, this withdrawal is effective immediately.

In the January 13, 2017, **Federal Register** notice announcing the availability of that Assessment Tool, HUD noted its agreement with commenters that ''a more accurate estimate of the time and cost involved in preparing the AFH may not be known until program participants submit their AFHs.''[10] Accordingly, that notice stated that ''HUD intends to also continue to monitor and assess the impact and burden of implementation of the AFH process on program participants, including on the range of fair housing outcomes.''[11] Consistent with this response to comments, since the publication of this notice on January 13, 2017, HUD has become aware of significant deficiencies in the Tool that have made it unduly burdensome for program participants to use the Tool to create acceptable and meaningful AFHs with impactful fair housing goals.

HUD's decision is, in part, informed by its review of the initial round of AFH submissions that were developed using the Local Government Assessment Tool. This review led HUD to conclude that the Tool is unworkable based upon: (1) The high failure rate from the initial round of submissions; and (2) the level of technical assistance HUD provided to this initial round of 49 AFHs, which cannot be scaled up to accommodate the increase in the number of local government program participants with AFH submission deadlines in 2018 and 2019.

1. Experience With the Initial Group of AFH Submissions Demonstrates That the Tool Is Unduly Burdensome and Ineffective at Assisting Program Participants With the Creation of Acceptable AFHs

Between October 2016 and December 2017, HUD received, reviewed, and issued initial decisions on 49 AFHs submitted by local government program participants. In 2018, the Department conducted an evaluation of these submissions and found that, among this initial group of 49 AFH submissions, a significant proportion of program participants had difficulty completing or understanding how to use the Tool to complete acceptable AFHs. Indeed, the proportion of submissions determined to be unacceptable indicates that the Tool was unduly burdensome and not working as an effective device to assist program participants with the creation of acceptable and meaningful AFHs with impactful fair housing goals.

For instance, only 37% of the initial 49 submissions (18/49) had been determined to be acceptable on initial submission. HUD returned 35% of these (17/49) as unacceptable. Many other AFH submissions (28% or 14/49) were accepted only after the program participants submitted revisions and additional information in the form of addendums in response to HUD's

[1] 80 FR 42357.

[2] §§ 5.150–5.168.

[3] 44 U.S.C. 3501 *et seq.*

[4] 80 FR 81840.

[5] *See, e.g.,* 44 U.S.C. 3506–07

[6] 81 FR 15546.

[7] 81 FR 57602.

[8] 83 FR 4368.

[9] Both the original iteration (LG2015) and current version (LG2017) of the Local Government Assessment Tool are available at *https://www.hudexchange.info/resource/5216/assessment-of-fair-housing-tool-for-local-governments/.* Program participants with a due date of October 13, 2017 or earlier were required to use the LG2015 version of the Assessment Tool. Program participants with a due date of October 14, 2017, or later must use the LG2017 version of the Assessment Tool. This notice pertains to the current (LG2017) version.

[10] 82 FR 4391.

[11] *Id.*

technical assistance. Taken together, 63% of the 49 AFHs submitted were either: (a) Returned as unacceptable and have not been successfully resubmitted, or (b) accepted only after the program participant supplied necessary additional information and revisions.

Tellingly, despite the fact that joint and regional submissions benefit from the sharing of resources by program participants, enabling them to address fair housing issues from the broader perspective provided by collaboration, joint and regional collaborations nonetheless suffered from the same defects as individual AFH submissions. For example, the largest regional AFH submitted to HUD involved a total of 19 program participants. In its review of the AFH, HUD determined that each of the 19 program participants would have met the regulatory standards for nonacceptance.

Additionally, many jurisdictions found it necessary to incur additional expense to hire consultants to complete their AFHs. Particularly in light of the high initial fail rates, this fact further demonstrates that the Assessment Tool is unduly burdensome as an information collection device and must be improved to reduce the burden upon respondents.

HUD's analysis shows that the excessively high rate of unacceptable AFHs was due, in large measure, to problems with the Local Government Assessment Tool, and that efficiency gains over time from experience working with the Tool would be unlikely to address HUD's concerns about both the inadequacy of the Tool and the burden to program participants in using the Tool to complete acceptable AFHs. Specifically, HUD's analysis found a pattern of problems with the initial 49 AFH submissions, indicating at least seven different categories of critical problems with the Local Government Assessment Tool: (a) Inadequate community participation; (b) insufficient use of local data and knowledge; (c) lack of regional analysis; (d) problems with identification of contributing factors; (e) prioritization of contributing factors; (f) problems with setting goals; and (g) inadequate responses due to duplication of questions. While there may have been myriad issues that caused an individual AFH submission to have been non-accepted, in the aggregate, this summary of issues describes the basis for HUD's determination that the Assessment Tool is ineffective and unduly burdensome on program participants.

(a) *Inadequate Community Participation.* A significant cause of the high non-acceptance rate was inadequate community participation. The AFFH regulations require program participants to ''give the public reasonable opportunities for involvement in the development of the AFH and in the incorporation of the AFH into the consolidated plan, PHA Plan, and other required planning documents.'' [12] However, the questions in the Local Government Assessment Tool regarding community participation have resulted in confusion. The questions vaguely incorporate by reference the existing community participation requirements in HUD's Consolidated Plan regulations [13] and the comparable requirements in HUD's Public Housing regulations.[14] The questions do not explicitly state the specific requirements or ask that program participants explain how they met these specific requirements. As a result, many of the initial AFH submissions did not fulfill these requirements and/or did not explain in their responses how they fulfilled the requirements. For example, the regulation at 24 CFR 91.105(b)(4) requires a period of not less than 30 calendar days for comment by the community; however, one community posted a draft AFH for public comment on a Friday and submitted the final AFH to HUD the following Monday, after providing only three days for public comment.[15]

(b) *Insufficient Use of Local Data and Knowledge.* The Assessment Tool requires local governments to utilize their local data and local knowledge to supplement the HUD-provided data, or, when appropriate, to replace HUD-provided data. HUD requires the use of local data only if the program participants can find and use such data at little or no cost. While many program participants utilized local data and local knowledge exactly as intended, a substantial number did not. The absence of local data, or failure to use it, resulted in an inability to address issues in a community that have not manifested themselves in the HUD-provided data. For example, when discussing environmental health issues, one program participant did not identify multiple Superfund locations in their jurisdiction. While this is information that a local government would know, specific Superfund locations are not noted on HUD maps. The questions in the Tool thus are inadequate to inform the program participants when to use local data and knowledge.[16]

(c) *Lack of Regional Analysis.* Questions throughout the Assessment Tool require program participants to undertake both a jurisdictional and a regional analysis of fair housing issues. Many of the 49 AFH submissions did not complete or adequately complete the regional component of the analysis of fair housing issues. Others may have completed the analysis but did so in a way that did not compare the jurisdiction to the region. The regional analysis is often a critical component of the AFH because fair housing issues may cross jurisdictional boundaries and demographic trends may extend across entire regions. HUD provides both jurisdictional and regional data through the AFFH data and mapping tool for each program participant. However, the Assessment Tool inadequately guides program participants in the use of such data to perform the type of regional analysis of fair housing issues that would be necessary for an acceptable AFH.

(d) *Identification of Contributing Factors.* Throughout the analysis of fair housing issues, the Assessment Tool requires that the program participant identify the contributing factors that create, contribute to, or perpetuate fair housing issues in their community. However, the Assessment Tool does not explicitly require the program participant to connect the identified contributing factors to the fair housing issues they will address until the final section where the program participant determines goals to overcome those contributing factors.

Because the Assessment Tool fails to instruct the program participants to connect these concepts, many of the 49 AFH submissions identified contributing factors which did not logically connect to the analysis of fair housing issues undertaken. In addition, factors which the program participants themselves identified in other portions of the Assessment Tool were not identified in the responses to these questions. For example, one AFH included 3 pages of detailed analysis of Home Mortgage Disclosure Act (HMDA) information outlining the lending discrimination occurring, yet the program participants did not identify lending discrimination as a contributing factor.[17]

(e) *Prioritization of Contributing Factors.* The final section of the

[12] 24 CFR 5.158(a).

[13] 24 CFR part 91.

[14] 24 CFR part 903.

[15] *See, e.g.,* Section III, Questions 1–4 of LG2015 and LG2017.

[16] *See, e.g.,* Section V, Questions B.3.1.a.3/B.3.1.b.3/B.3.1.c.3/B.3.1.d.3/B.3.1.e.3 (LG2017).

[17] *See, e.g.,* Section V, Questions B.1.3/B.2.3/B.3.3/B.4.3/C.3/D.7 (LG2015 and LG2017).

Assessment Tool requires that the program participant(s) prioritize the contributing factors identified for each fair housing issue analyzed in the fair housing analysis sections. The program participant(s) must then justify the prioritization of the contributing factors. Finally, the program participant(s) set goals designed to overcome the contributing factors identified as significant. Jurisdictions must reasonably exercise their discretion to prioritize contributing factors. The justification provides an opportunity to explain the prioritization method selected. Many of the 49 submissions either included in this question contributing factors not identified in the analysis of fair housing issues or did not include the contributing factors that were identified. Many program participants also did not explain their prioritization method. Without this critical link, the analysis of fair housing issues and the goals do not connect, making the AFH unacceptable. The Assessment Tool thus fails to provide adequate guidance for the prioritization of contributing factors.[18]

(f) *Goals Section was Highly Problematic.* The goals section was an issue in or the sole reason for the majority of initially non-accepted AFHs. In several submissions, the goals were not likely to result in meaningful actions, lacked metrics and milestones, were not linked to contributing factors and fair housing issues, and generally lacked adequate discussion.

Program participants are responsible for identifying their own fair housing goals. However, the goals set by the program participant must connect to the analysis of fair housing issues *and* result in meaningful actions to affirmatively further fair housing.

These goals will then be incorporated into Consolidated Plans and Public Housing Plans. Along with extensive guidance, HUD provides the following chart in the assessment tool to assist program participants in completing this question.

Goal	Contributing factors	Fair housing issues	Metrics, milestones, and timeframe for achievement	Responsible program participant(s)

Discussion:

Many of the 49 AFHs reviewed were deficient in this section, which is the culmination of the AFH. Goals were frequently overbroad or would not result in meaningful actions, for example, to ''increase housing choice,'' or ''partner with . . . .'' Program participants frequently failed to connect their fair housing goals to the AFH analysis, or to the contributing factors or fair housing issues identified in the AFH.

Metrics and milestones for evaluating the accomplishment of fair housing goals were the most frequent source of deficiency in this section. However, frequently those established in the AFHs were neither time-bound nor measurable. The discussion section of the chart is a program participant's opportunity to explain the goal to ensure that HUD understands its intention and can often counter-balance deficiencies in or confusion caused by other sections of the chart. Many of the program participants did not complete this section or provided only a vague discussion. HUD is therefore concerned that the roadmap provided in the Assessment Tool is inadequate to lead to the development of effective goals.[19]

(g) *Inadequate Responses Due to Duplication.* The Local Government Assessment Tool contains several questions that have elicited inadequate responses which merely duplicate previous responses to other questions within the Tool without responding fully to the specific question asked. The lack of clarity in the questions led to responses that merely assumed a question was being asked twice and thus failed to respond fully to the question at hand. Similarities in the sentence structure and terminology used in the questions may have caused program participants to overlook slight or nuanced differences between questions.[20]

2. HUD Does Not Have the Resources To Provide a Similar Level of Technical Assistance to Expanding Numbers of Program Participants in 2018 and 2019

Because of these significant problems with the Tool, HUD has provided substantial technical assistance to this initial round of program participants, even for the AFHs that have been accepted. HUD does not have the resources to continue to provide program participants with the level of technical assistance that they would need to submit acceptable AFHs using the current version of the Local Government Assessment Tool. Despite the fact that many jurisdictions reportedly have found it necessary to engage consultants to complete the Assessment Tool, HUD estimates that it has spent over $3.5 million on technical assistance for the initial round of 49 AFH submissions. In addition to contract technical assistance services, significant HUD staff resources are required to review an AFH for acceptability and to communicate with program participants regarding HUD's determination to accept or non-accept an AFH.

Although HUD anticipated providing technical assistance to program participants to assist them in submitting acceptable assessments, the amount of assistance that has proved to be required with the current version of the Local Government Assessment Tool is not sustainable particularly in light of the significant increase in AFH submissions scheduled to occur in 2018 and 2019. In 2018, for example, 104 local government program participants are scheduled to submit AFHs to HUD. In 2019, the number of local governments originally scheduled to submit their AFHs rises to 752. The level of technical assistance provided to the initial 49 participants could not be extended to these numbers of AFHs due in 2018 and 2019.

And due to the deficiencies in the Local Government Assessment Tool, HUD believes that, without the withdrawal and revision of the Tool, a high percentage of AFHs in future rounds of submissions would not be initially acceptable. Because the problems with the Tool have created the above-described patterns of deficiencies in AFH submissions even from collaborative groups leveraging the resources of multiple jurisdictions, HUD

[18] *See, e.g.,* Section VI, Question 1 (LG2015 and LG2017).

[19] *See, e.g.,* Section VI, Question 2 (LG2015 and LG2017).

[20] *See, e.g.,* Section III, Question 3; Section IV, Question 1; Section V, Questions B.1.1.b/B.3/B.4/C.1.2/D.2.a (LG2017).

does not believe that the level of technical assistance it has been required to provide to the initial 49 AFHs would decrease meaningfully as result of expanded usage of the Tool. As a result, in 2018 and 2019, HUD would not be able to provide all program participants with the extent of assistance provided to those in the initial round of AFHs, meaning that these participants would not have the help they would need to correct their assessments. This would lead to a great deal of uncertainty for program participants as to how to submit an acceptable AFH. Such uncertainty would, in turn, lead to uncertainty regarding the status of their HUD-funded programs so long as they do not have an accepted AFH in place.

3. In Light of HUD and Local Government Program Participants' Resource Limitations, Temporary Withdrawal of the Local Government Assessment Tool Is Necessary as the Most Efficient Way To Resolve the Tool's Significant Deficiencies

HUD is withdrawing the Tool to produce a more effective and less burdensome Assessment Tool. These improvements to the Tool will make it more effective in assisting program participants with the creation of meaningful assessments with impactful fair housing goals to help them plan to fulfill their legal obligation to affirmatively further fair housing. Withdrawal and revision of the Assessment Tool will also conserve HUD's limited resources, allowing HUD to use those limited resources more effectively to help program participants produce meaningful improvements in the communities they serve. HUD also believes that investing additional time to improve its Data and Mapping Tool (AFFH–T) and the User Interface (AFFH–UI) will result in more substantive assessments with greater fair housing impact.

III. Effects of Withdrawal of Assessment Tool

The AFFH regulations at 24 CFR 5.160(a)(1)(ii) provide that if the specified AFH submission deadline results in a submission date that is less than 9 months after the Assessment Tool designed for the relevant type of program participant is available for use, ''the participants(s)' submission deadline will be extended . . . to a date that will be not less than 9 months from the date of publication of the Assessment Tool.'' For example, in the case of the Assessment Tool for use by PHAs, HUD published a notice in January 2017, advising that the Assessment Tool had been approved pursuant to the PRA process, but was not yet available for use by PHAs because the HUD data needed to make the Assessment Tool workable was not yet available.[21] Accordingly, under 24 CFR 5.160(a)(1)(ii), the deadline for first AFH submissions by PHAs was extended until a workable Assessment Tool becomes available.

Similarly, in the case of the Local Government Assessment Tool, HUD has determined that the current iteration of the Tool, although published after PRA procedures, is substantively deficient and unduly burdensome because it has resulted in great expense to program participants and HUD, yet it is not adequately guiding participants through the creation of acceptable AFHs. Accordingly, HUD is immediately withdrawing the Local Government Assessment Tool. As a result, local jurisdictions do not have an approved Assessment Tool that is published and available for use in completing the AFHs. Pursuant to 24 CFR 5.160(a)(1)(ii), the deadline for local government program participants to submit a first AFH is thus extended to a date not less than 9 months following the future publication of a revised and approved Local Government Assessment Tool. HUD is immediately seeking comment on ways to make the Local Government Assessment Tool workable and effective. Pursuant to 24 CFR 5.160(a)(1)(ii), the future published notice announcing that a revised and approved Local Government Assessment Tool is available will also provide program participants with the revised due date for first AFH submissions.

Consolidated plan program participants that have not yet submitted their first AFHs must nonetheless continue to comply with existing, ongoing legal obligations to affirmatively further fair housing (legal obligations which AFHs were merely intended to help participants plan to fulfill). Pursuant to 24 CFR 5.160(a)(3), until a consolidated plan program participant submits its first AFH, it will continue to provide the AFFH certification with its Consolidated Plan, in accordance with the requirements that existed prior to August 17, 2015. Those requirements obligate a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an analysis of impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions.

For Consolidated plan program participants that are starting a new 3–5-year Consolidated plan cycle that begins before their due date for an AFH, the AI should continue to be updated in accordance with the HUD, Fair Housing Planning Guide (1996), available at *https://www.hud.gov/sites/documents/FHPG.PDF.* The data HUD has developed in order to implement the AFFH rule will remain available for program participants to use in conducting their AIs. HUD encourages program participants to collaborate to develop a regional AI, as regional collaborations provide an opportunity for program participants to share resources and address fair housing issues that cross jurisdictional boundaries.[22]

Program participants that have already submitted an AFH which has been accepted by HUD must continue to execute the goals of that accepted AFH and are not required to conduct a separate AI. HUD will discontinue the review of AFHs submitted by local governments that are currently under review and will not render a decision to accept or not accept. In cases where HUD denied acceptance of an AFH submission that used the withdrawn Local Government Assessment Tool and the program participant(s) were preparing to re-submit an AFH, the participant(s) should not submit a revised AFH. Finally, local governments prepared to submit their first AFH should not submit an AFH to HUD. Local governments that have not received an accept or non-accept determination from HUD, or that have received a non-accept but will no longer be required to resubmit their AFH, are still required to prepare an AI, as described above in this notice. Program participants must continue to fulfill their legal obligations to affirmatively further fair housing.

IV. Request for Public Comment on Improvements to the Local Government Assessment Tool

This notice offers the opportunity for the public to provide information and recommendations on revisions to the Local Government Assessment Tool. HUD welcomes and will consider all

[21] 82 FR 4373.

[22] Please refer to HUD's 2017 interim guidance for additional information on collaboration, specifically the Q&A captioned: ''How can States Collaborate with Local Governments or PHAs?''. The guidance is available at: *https://www.hudexchange.info/resources/documents/Interim-Guidance-for-Program-Participants-on-Status-of-Assessment-Tools-and-Submission-Options.pdf.* This guidance is generally applicable to all types of program participants.

responses to this notice when reconsidering the Assessment Tool

Dated: May 18, 2018.

Anna Maria Farías,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 2018–11146 Filed 5–21–18; 4:15 pm]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5173–N–18]

Affirmatively Furthering Fair Housing (AFFH): Responsibility To Conduct Analysis of Impediments

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: By notice published elsewhere in today's **Federal Register**, HUD has withdrawn the current version of the information collection device used by local government program participants to assess fair housing issues as part of their planning for use of housing and community development block grants. The device is referred to as the Local Government Assessment Tool; the resulting assessment is referred to as an Assessment of Fair Housing (AFH). As explained in that notice, the withdrawal of the lack of a working information collection device means that a program participant that has not yet submitted an AFH using that device that has been accepted by HUD must continue to carry out its duty to affirmatively further fair housing by, inter alia, continuing to assess fair housing issues as part of planning for use of housing and community development block grants in accordance with pre-existing requirements. The pre-existing requirements referred to the fair housing assessment as an ''analysis of impediments to fair housing choice'' (AI). This notice reminds program participants of the requirements and standards for completing the AI.

DATES: *Applicability Date:* May 23, 2018.

FOR FURTHER INFORMATION CONTACT: Krista Mills, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, Office Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5246, Washington, DC 20410; telephone number 202–402–6577. Individuals with hearing or speech impediments may access this number via TTY by calling the toll-free Federal Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 16, 2015, HUD published in the **Federal Register** its Affirmatively Furthering Fair Housing (AFFH) final rule.[1] The AFFH final rule provides HUD program participants with a revised planning approach to assist them in meeting their legal obligation to affirmatively further fair housing. To assist HUD program participants in meeting this obligation, the AFFH rule provides that program participants must conduct an Assessment of Fair Housing (AFH) using an ''Assessment Tool.'' The AFFH regulations are codified in 24 CFR part 5, subpart A (§§ 5.150–5.168).

Through notice published elsewhere in today's **Federal Register**, HUD announces its withdrawal of the Local Government Assessment Tool (OMB Control No: 2529–0054). As explained in that notice, the AFFH regulations at 24 CFR 5.160(a)(1)(ii) provide that if the specified AFH submission deadline results in a submission date that is less than 9 months after the Assessment Tool designed for the relevant type of program participant is available for use, ''the participant(s)' submission deadline will be extended . . . to a date that will be not less than 9 months from the date of publication of the Assessment Tool.'' As a result of the withdrawal of the Local Government Assessment Tool and the lack of available HUD data for the PHA Assessment Tool, currently no type of program participant has an Assessment Tool available for use.[2] Pursuant to 24 CFR 5.160(a)(1)(ii), the deadline for local government program participants to submit a first AFH is thus extended to a date not less than 9 months following the future publication of a revised and approved Local Government Assessment Tool.

In the meantime, as explained in the notice withdrawing the Local Government Assessment Tool, Consolidated Plan program participants that have not yet submitted an assessment using a HUD-provided assessment tool that must be accepted, must nonetheless continue to comply with existing, ongoing legal obligations to affirmatively further fair housing. Congress has repeatedly reinforced this mandate, requiring in the Housing and Community Development Act of 1974 and the Cranston-Gonzalez National Affordable Housing Act, for example, that covered HUD program participants certify, as a condition of receiving Federal funds, that they will affirmatively further fair housing.[3] Pursuant to 24 CFR 5.160(a)(3), until a Consolidated Plan program participant submits its first accepted AFH, it will continue to provide the AFFH certification with its Consolidated Plan, in accordance with the requirements that existed prior to August 17, 2015.[4] Those requirements obligate a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an analysis of impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions.

Program participants are hereby reminded that the legal obligation to affirmatively further fair housing remains in effect, and that HUD places a high priority upon the responsibility of program participants to ensure that their AIs serve as effective fair housing planning tools. For Consolidated Plan program participants that are starting a new 3–5-year Consolidated Plan cycle that begins before their due date for an AFH, the AI should continue to be updated in accordance with the HUD Fair Housing Planning Guide (1996).[5] The data HUD has developed in order to implement the AFFH rule will remain available for program participants to use in conducting their AIs. HUD encourages program participants to collaborate to develop a regional AI, as regional collaborations provide an opportunity for program participants to share resources and address fair housing issues that cross jurisdictional boundaries.[6]

Further, program participants are hereby reminded that if HUD believes the AI or actions taken to affirmatively further fair housing to be inadequate, HUD may require submission of the full AI and other documentation. If HUD concludes that the AI is substantially incomplete, or the actions taken were plainly inappropriate to address the identified impediments, HUD may

[1] 80 FR 42357.

[2] See 82 FR 4373.

[3] *See, e.g.,* 42 U.S.C. 5304(b)(2), 5306(d)(7)(B), 12705(b)(15).

[4] *See, e.g.,* 24 CFR 91.225(a)(1) (2014); 24 CFR 91.325(a)(1) (2014).

[5] Available at *https://www.hud.gov/sites/documents/FHPG.PDF.*

[6] Please refer to HUD's 2017 interim guidance for additional information on collaboration, specifically the Q&A captioned: ''How can States Collaborate with Local Governments or PHAs?''. The guidance is available at: *https://www.hudexchange.info/resources/documents/Interim-Guidance-for-Program-Participants-on-Status-of-Assessment-Tools-and-Submission-Options.pdf.* This guidance is generally applicable to all types of program participants.

question the jurisdiction's AFFH certification by providing notice to the jurisdiction that HUD believes the AFFH certification to be inaccurate and provide the jurisdiction an opportunity to comment. If, after the notice and opportunity to comment is given to the jurisdiction, HUD determines that the AFFH certification is inaccurate, HUD will reject the certification. Rejection of the certification renders the Consolidated Plan substantially incomplete and constitutes grounds for HUD to disapprove the Consolidated Plan as submitted.[7] A jurisdiction cannot receive its Community Development Block Grants (CDBG), HOME, Emergency Solutions Grants (ESG), or Housing for Persons With AIDs (HOPWA) program grants until the Consolidated Plan is approved.

Dated: May 18, 2018.

Anna Maria Farías,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 2018–11145 Filed 5–21–18; 4:15 pm]

BILLING CODE 4210–67–P

[7] *See* 24 CFR 91.500.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5173–N–16]

Affirmatively Furthering Fair Housing: Withdrawal of Notice Extending the Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice; withdrawal.

SUMMARY: This notice withdraws HUD's January 5, 2018, notice extending the submission deadline for an Assessment of Fair Housing (AFH) by local government consolidated plan program participants.

DATES: Applicable May 23, 2018, the document published at 83 FR 683 on January 5, 2018, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Krista Mills, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, Office Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5246, Washington, DC 20410; telephone number 202–402–6577. Individuals with hearing or speech impediments may access this number via TTY by calling the toll-free Federal Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD's Affirmatively Furthering Fair Housing (AFFH) regulations (24 CFR 5.150–5.168) provide that program participants must submit an Assessment of Fair Housing (AFH) using a HUD-provided assessment tool. See *e.g.,* 24 CFR 5.154. The regulations further provide a schedule of time frames by which different types of program participants must submit an assessment using the appropriate HUD-provided tool. See 24 CFR 5.160(a). These time frames are connected to an individual program participant's multi-year consolidated planning process. On January 5, 2018, at 83 FR 683, HUD published a **Federal Register** notice extending the time frame applicable to local government consolidated plan program participants. HUD is withdrawing the January 5, 2018, notice. If HUD later finds it prudent to revise the regulations, including by revising the submission schedule, HUD will publish a notice of proposed rulemaking to that effect for public comment.

Dated: May 18, 2018.

Anna Maria Farías,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 2018–11143 Filed 5–21–18; 4:15 pm]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N048; FXES11130800000–178–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before June 22, 2018.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see ADDRESSES (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests

Applicants

Permit No. TE–204436

Applicant: Johanna Kisner, Orcutt, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–185595

Applicant: Kelly Bayne, Sacramento, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); and take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–101462

Applicant: Peter Sarafian, Los Osos, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the Morro shoulderband snail (Banded dune) (*Helminthoglypta walkeriana*) in

conjunction with survey activities in San Luis Obispo County, California for the purpose of enhancing the species' survival.

Permit No. TE–86356B

Applicant: SeaWorld San Diego, San Diego, California

The applicant requests a permit renewal and amendment to take (perform rescue operations, capture, handle, collect, transport, rehabilitate, mark/tag, return to wild, display for educational purposes, and perform veterinarian care) the green sea turtle (*Chelonia mydas*), leatherback sea turtle (*Dermochelys coriacea*), loggerhead sea turtle (*Caretta caretta*), Olive Ridley sea turtle (*Lepidochelys olivacea*), and Hawksbill sea turtle (*Eretmochelys imbricata*) in conjunction with stranded sea turtle operations, research, and enhancement of wild populations throughout the range of the species in California, Oregon, and Washington, for the purpose of enhancing the species' survival.

Permit No. TE–80703A

Applicant: Seth Reimers, San Diego, California

The applicant requests a permit amendment to take (pursuit by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–181714

Applicant: Pieter Johnson, Boulder, Colorado

The applicant requests a permit amendment to take (harass by capture, handle, swab, and release) the California tiger salamander (Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with genetic and hybridization research activities in throughout the range of the species in California, for the purpose of enhancing the species' survival.

Permit No. TE–217663

Applicant: Ann Dalkey, Redondo Beach, California

The applicant requests a permit renewal to take (pursuit by survey) the Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*) and El Segundo blue butterfly (*Euphilotes battoides allyni*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–091012

Applicant: Molly Goble, San Ramon, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–039460

Applicant: Thomas Olson, Lompoc, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, mark, collect tissues samples, and release) the California tiger salamander (Santa Barbara County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–71409C

Applicant: Juliana Woodruff, Benicia, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) and Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–831207

Applicant: Karen Kirtland, Riverside, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*), Stephens' kangaroo rat (*Dipodomys stephensi*), and Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–006328

Applicant: Michael Drake, Tehachapi, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), and Stephens' kangaroo rat (*Dipodomys stephensi*); take (pursuit by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*), and Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–72549C

Applicant: Marty Lewis, Carson, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–161496

Applicant: Portia Halbert, Felton, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey and habitat enhancement activities in San Mateo and Santa Cruz counties, California for the purpose of enhancing the species' survival.

Permit No. TE–117947

Applicant: Kevin Clark, San Diego, California

The applicant requests a permit renewal and amendment to take (locate and monitor nests, capture, band, and release) the least Bell's vireo (*Vireo bellii pusillus*); take (harass by survey, locate and monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); take (harass by survey and locate and monitor nests) the California least tern

(*Sternula antillarum browni*) (*Sterna a. browni*); and take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–804203

Applicant: Stephen Myers, Moreno Valley, California

The applicant requests a permit renewal to take (locate and monitor nests, remove brown-headed cowbird eggs and chicks from parasitized nests, capture, handle, band, and release) the least Bell's vireo (*Vireo belli pusillus*); take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); take (harass by survey) the Yuma clapper rail (Yuma Ridgway's r.) (*Rallus longirostris yumanensis*) (*R. obsoletus y.*); take (pursuit by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*) and Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with survey and population monitoring activities throughout the range of the species in California and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–34570A

Applicant: San Francisco Bay Bird Observatory, Milpitas, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, and utilize cameras) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey, population monitoring, and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–062907

Applicant: Andrew Forde, Camarillo, California

The applicant requests a permit renewal and amendment to take (locate and monitor nests and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*) and take (harass by survey, locate and monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); in conjunction with survey and population monitoring activities throughout the range of the species in California and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–72875C

Applicant: Ian Boyd, Fair Oaks, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–14231A

Applicant: Caesara Brungraber, Bend, Oregon

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, release, collect vouchers, collect branchiopod cysts, and process vernal pool soil samples) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); and take (pursuit by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–11271B

Applicant: Heron Pacific, LLC, Rocklin, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*), and giant kangaroo rat (*Dipodomys ingens*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–036499

Applicant: Golden Gate National Recreation Area, San Francisco, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, and release while conducting educational workshops) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with scientific educational activities within the Golden Gate National Recreation Area in California for the purpose of enhancing the species' survival.

Permit No. TE–74980C

Applicant: Plumas Audubon Society, Quincy, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the Sierra Nevada yellow-legged frog (*Rana sierrae*) and mountain yellow-legged frog ((northern California DPS) (*Rana muscosa*)) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–073205

Applicant: Cristina Sandoval, Goleta, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, use decoys, and play taped vocalizations) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey, population monitoring activities, and research activities in Santa Barbara County, California for the purpose of enhancing the species' survival.

Permit No. TE–05661B

Applicant: Jennifer Gold, Santa Barbara, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, and install symbolic fencing) the California least tern (*Sternula antillarum browni*) in conjunction with survey, population monitoring, and research activities throughout the range of the species in

California for the purpose of enhancing the species' survival.

Permit No. TE–75492C

Applicant: Susan Bennett, San Francisco, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), and take (pursuit by survey) the mission blue butterfly (*Icaricia icarioides missionensis*) and San Bruno elfin butterfly (*Callophrys mossii bayensis*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–815537

Applicant: Swaim Biological Inc., Livermore, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, insert passive integrated transponder tags, collect tissue samples, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*); and take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey, research, and educational workshop activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–051248

Applicant: Paul Lemons, San Diego, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); take (pursuit by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–75776C

Applicant: Melanie Madden, Encinitas, California

The applicant requests a new permit to take (harass by survey, locate and monitor nests, capture, handle, band, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii extimus*); in conjunction with survey, population monitoring, and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–62868B

Applicant: The Klamath Tribes, Chiloquin, Oregon

The applicant requests a permit to take (harass by survey, capture, handle, transport, collect eggs, captive rear, maintain in captivity in artificial ponds, test for disease, tag, and release) the Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*) in conjunction with a captive rearing and release program, population studies, and research activities throughout the range of each species in Oregon for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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.

Karen Jensen,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2018–10956 Filed 5–22–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW184370, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW184370 from Anadarko E&P Onshore LLC for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective October 1, 2016, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188 (e)(4) and 43 CFR 3108.2–3(b)(2)(v).

Erik Norelius,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–10965 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW180625, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW180625 from Kirkwood Oil & Gas LLC for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively. The lessee also agreed to the amended stipulations as required by the Casper Approved Resource Management Plan. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective April 1, 2016, under the revised terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188(e)(4) and 43 CFR 3108.2–3(b)(2)(v).

Erik Norelius,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–10962 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW177140, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW177140 from JK Minerals Inc. for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively and additional lease stipulations. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective September 1, 2016, under the amended terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188(e)(4) and 43 CFR 3108.2–3(b)(2)(v).

Erik Norelius,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–10966 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18X21109AF LLUT92000 L13100000 FI0000 25–7A]

Notice of Proposed Class II Reinstatement of Terminated Oil and Gas Lease UTU89234, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with Title IV of the Federal Oil and Gas Royalty Management Act, EnerVest Energy Institutional Fund XII–A LP, XXI–WIB, XXI–WIC, timely filed a petition for reinstatement of oil and gas lease UTU89234 for lands in Carbon County, Utah, and it was accompanied by all required rentals and royalties accruing from February 1, 2016, the date of termination. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Kent Hoffman, Deputy State Director, Lands and Minerals, Utah State Office, Bureau of Land Management, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101, phone (801) 539–4063, Email: *khoffman@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to new lease terms for rental and royalty. The rental UTU89234 will increase to $10 per acre and the royalty to 16⅔ percent. The $500 administrative fee for the leases has been paid, and the lessee has reimbursed the Bureau of Land Management (BLM) for the cost of publishing this notice. The following-described lands in Carbon County, Utah, include:

UTU89234

Salt Lake Meridian, Utah

T. 12 S., R 15 E.,
Sec. 10, NE1/4;
Sec. 14, NW1/4;
Sec. 15, NE1/4.

The area described contains 480.00 acres.

As the lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the BLM is proposing to reinstate the lease 30 days following publication of the notice, with the effective date of February 1, 2016, subject to increased rental and royalty rates cited above.

Authority: Mineral Leasing Act of 1920 (30 U.S.C. 188) 43 CFR 3108.2–3.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–10967 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF020000 L54400000.EU0000. LVCLC14C0290; 14X]

Notice of Realty Action: Direct Sale of Public Land in Gilpin County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of four parcels of public land totaling 6.72 acres in Gilpin County, Colorado, to the City of Black Hawk (Black Hawk) under Section 203 of the Federal Land Policy and Management Act of 1976, (FLPMA), and BLM land sale regulations, 43 CFR 2711. The combined appraised fair market value of the four parcels is $47,000. This property valuation is approved by the Office of Valuation Services and is in conformance with the Uniform Standards for Federal Land Acquisitions (Yellowbook) and the Uniform Standards of Professional Appraisal Practice (USPAP).

DATES: Written comments must be received no later than July 9, 2018.

ADDRESSES: Mail written comments to the BLM Royal Gorge Field Office, Field Manager, 3028 E. Main Street, Cañon City, CO 81212. Written comments may also be submitted electronically at *https://go.usa.gov/xnWrN,* or by fax to 719–269–8599.

FOR FURTHER INFORMATION CONTACT: Greg Valladares, Realty Specialist, BLM Royal Gorge Field Office, at 719–269–8513. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Under FLPMA, Section 203(a)(3) and 43 CFR 2710.0–3(a)(2), the disposal of these lands will serve important public objectives, which cannot be achieved prudently or feasibly on lands other than these public lands. In this case, the objectives may include, but are not limited to, expansion of communities and economic development. The BLM authorized officer finds that the public interest would be best served by disposing of these public lands that are difficult and uneconomical to manage as public lands, and are not suitable for management by another Federal department or agency.

The parcels are isolated, not contiguous with each other and not contiguous with other federally-managed lands. Continued Federal ownership of the parcels does not provide public benefit. Black Hawk owns the adjacent lands surrounding the parcels and intends to use the parcels for potential water storage infrastructure and inundation by a reservoir proposal being analyzed by the United States Army Corp of Engineers. Black Hawk will also manage the parcels for public recreation and open space.

The four parcels, which are located on Maryland Mountain near Chase Gulch Road in Gilpin County, Colorado, are legally described as:

Sixth Principal Meridian, Colorado

T. 3 S., R. 73 W.,
Sec. 12, lots 20, 21, 23, and 24.

The areas described aggregate 6.72 acres.

This sale is in conformance with the BLM Northeast Resource Management Plan, approved September 16, 1986. The offered lands consist of small, irregularly shaped, and isolated remnants resulting from a pattern of intermingled mining claim patents. The BLM prepared a parcel-specific Environmental Assessment (EA) document numbered DOI–BLM–CO–F020–2017–0022–EA in connection with this Notice of Realty Action. A copy of the EA is available online at *https://go.usa.gov/xnWrN.*

The proposed direct sale will be conducted in compliance with regulations contained in 43 CFR 2711.3–3(a)(1), which allow the BLM to conduct direct sales of public lands when a competitive sale is not appropriate and the public interest is best served by a direct sale. The direct sale is to a local government to meet its need for future water storage, public recreation and open space.

The above lands were segregated on May 6, 2014, from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of the FLPMA (79FR25887). The BLM published a Second Notice of Segregation on May 3, 2016 (81FR26579), to extend the segregation to May 5, 2018. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or expiration of the segregation, whichever comes first. Upon publication of this notice and until completion of the sale, the BLM will not accept land use applications affecting the identified public lands, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. Pursuant to 43 CFR 2711.1–2, the lands will not be sold until after July 23, 2018, and notice will be published once a week for three weeks in the *Mountain Ear* and the *Weekly Register-Call.*

The patent, if issued, will be subject to the following terms, conditions, and reservations:

1. A reservation of a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C 945);

2. A reservation of all mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe are reserved to the United States, together with all necessary access and exit rights;

3. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupation on the leased/patented lands;

4. Valid existing rights and encumbrances of record, including, but not limited to, rights-of-way for roads and public utilities.

Information concerning the sale, appraisal, reservations, procedures and conditions, and other environmental

documents that may appear in the BLM public files for the four parcels are available for review during normal business hours, Monday through Friday, at the BLM Royal Gorge Field Office, except during Federal holidays.

Submit comments on this notice to the address in the **ADDRESSES** section above. 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. Any adverse comments regarding this sale will be reviewed by the BLM Colorado State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711)

Gregory P. Shoop,

Acting BLM Colorado State Director.

[FR Doc. 2018–10960 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000–18X]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC77678, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reinstatement.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease COC77678 from Contex Energy Company, LLC for land in Archuleta and La Plata counties, Colorado. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases were issued that affect these lands prior to receiving the petition. The BLM proposes to reinstate this lease.

FOR FURTHER INFORMATION CONTACT: Johnathan Fairbairn, Branch Chief for Fluid Minerals Adjudication, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215, 303–239–3753, *jfairbairn@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or questions with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agrees to the new lease terms for rentals and royalties of $10 per acre, or fraction thereof, per year, and 16⅔ percent respectively. The lessee paid the required $500 administrative fee for lease reinstatement and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective June 1, 2017, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188(e)(4) and 43 CFR 3108.2–3.

Gregory P. Shoop,

Acting BLM Colorado State Director.

[FR Doc. 2018–10968 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW180627, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW180627 from Kirkwood Oil & Gas LLC for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due, since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee also agreed to the amended stipulations as required by the Casper Approved Resource Management Plan. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective April 1, 2016, under the revised terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188(e)(4) and 43 CFR 3108.2–3(b)(2)(v).

Erik Norelius,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–10963 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0025]

Agency Information Collection Activities: Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs

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

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing our intention to request renewed approval for the collection of information for the maintenance of state programs and procedures for

substituting Federal enforcement of state programs and withdrawing approval of state programs. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned control number 1029–0025.

DATES: Interested persons are invited to submit comments on or before July 23, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to: The Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Attn: John Trelease, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783.

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 OSMRE; (2) is the estimate of burden accurate; (3) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title of Collection: 30 CFR part 733—Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs.

OMB Control Number: 1029–0025.

Abstract: This Part allows any interested person to request the Director of OSMRE evaluate a state program by setting forth in the request a concise statement of facts that the person believes establishes the need for the evaluation.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Any interested person (individuals, businesses, institutions, organizations).

Total Estimated Number of Annual Respondents: 1 individual or organization.

Total Estimated Number of Annual Responses: 1.

Estimated Completion Time per Response: Varies from 20 hours to 100 hours, and an average of 60 hours.

Total Estimated Number of Annual Burden Hours: 60 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $0.

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

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–10987 Filed 5–22–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Human Milk Oligosaccharides and Methods of Producing the Same, DN 3306*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received an amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Glycosyn LLC on May 16, 2018. The original complaint was filed on April 2, 2018 and a notice of receipt of complaint; solicitation of comments relating to the public interest was published in the **Federal Register** on April 6, 2018. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain human milk oligosaccharides and methods of producing the same. The amended complaint names as respondent: Jennewein Biotechnologie GmbH of Germany. The amended complaint alleges infringement of U.S. Patent Nos. 9,453,230 and 9,970,018. The complainant requests that the Commission issue a limited exclusion

order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3306) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures.[1]) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 18, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–11006 Filed 5–22–18; 8:45 am]

BILLING CODE P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1113]

Certain Submarine Telecommunication Systems and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 20, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of NEC Corporation of Japan and NEC Corporation of America of Irving, Texas. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain submarine telecommunication systems and components thereof by reason of infringement of U.S. Patent No. 8,244,131 (''the '131 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 17, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain submarine telecommunication systems and components thereof by reason of infringement of one or more of claims 1–19 of the '131 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

NEC Corporation, 7–1, Shiba 5-chome, Minatao-ku,, Tokyo 108–8001, Japan

NEC Corporation of America, 3929 W. John Carpenter Freeway, Irving, TX 75063–2909

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Xtera, Inc., 500 West Bethany Drive, Allen, TX 75013,

MC Assembly, LLC, 425 North Drive, Melbourne, FL 32934

MC Test Services, Inc., 425 North Drive, Melbourne, FL 32934

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 18, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–11008 Filed 5–22–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On May 16, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Southern District of Georgia in the lawsuit entitled *United States* v. *Hercules LLC,* Civil Action No. 2:18–cv–00062–LGW–RSB.

The United States, on behalf of the U.S. Environmental Protection Agency (EPA), filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The complaint seeks performance of interim response action at the outfall of the Terry Creek Dredge Spoil Areas/Hercules Outfall Site (''Site'') in Brunswick, in Glynn County, Georgia. The outfall is known as ''Operable Unit 1,'' one of three operable units at the Site. The complaint also seeks recovery of the United States' past response costs and future response costs at the Site.

The proposed consent decree requires defendant Hercules LLC to implement the interim remedy selected by EPA for Operable Unit 1, which is estimated to cost $4,488,450. The consent decree also requires the defendant to pay $153,009.48 in past response costs at the Site, and to pay future response costs incurred by the United States in connection with this consent decree, as described in the consent decree.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Hercules, LLC,* D.J. Ref. No. 90–11–3–11685. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $146.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $17.25.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–10983 Filed 5–22–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Employment and Training Administration (ETA) Program Year (PY) 2018 Workforce Innovation and Opportunity Act (WIOA) Section 167, National Farmworker Jobs Program (NFJP) Proposed Modifications to Allotment Formula

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice announces proposed modifications to the allotment formula for the National Farmworker Jobs Program (NFJP), authorized under the Workforce Innovation and Opportunity Act (WIOA), Section 167, and a presentation of preliminary State planning estimates for Program Year (PY) 2018. These planning estimates are based on the enacted NFJP funding appropriation in the Consolidated Appropriation Act, 2018.

DATES: The PY 2018 NFJP allotments become effective July 1, 2018.

Written comments on this notice are invited and must be received on or before May 30, 2018.

ADDRESSES: Questions on this notice can be submitted to the Employment and Training Administration, Office of Workforce Investment, 200 Constitution Ave, NW, Room C4510, Washington, DC 20210, Attention: Laura Ibañez, Unit Chief, (202) 693–3645 or Steven Rietzke, Division Chief at (202) 693–3912.

FOR FURTHER INFORMATION CONTACT: Laura Ibañez, Unit Chief, at (202) 693–3645 or Steven Rietzke, Division Chief, at (202) 693–3912.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 182(d) of the WIOA, Prompt Allotment of Funds.

The formula was developed for the purpose of distributing funds geographically by State service area, on the basis of each State service area's relative share of persons eligible for the program. The formula's methodology was described in detail in a notice that was published in the **Federal Register** on May 19, 1999 (64 FR 27390), which is accessible at *https://www.federalregister.gov/.* Beginning with PY 2018, ETA proposes three modifications to the allotment formula which, if implemented, will result in more accurate estimates of each State service area's relative share of persons eligible for the program. In addition, new data from each of the four data files that have been the basis of the formula since 1999 will be used.

The proposed formula modifications are the result of ETA's review of the formula in the context of the NFJP-eligible population and farm labor market changes, and feedback that ETA received from NFJP grantees following informational webinars that ETA hosted on February 23, 2017 and April 27, 2017.

Section II of this notice provides for public comment a discussion of the updated data files that will be used to populate the formula and the proposed formula modifications.

Section III describes a hold-harmless provision which is proposed to be put into place for the implementation year and the following years. The hold-harmless provision is designed to provide a staged transition from old to new shares of funding for State service areas.

Section IV describes proposed minimum funding provisions to address State service areas which would receive less than $60,000.

Section V describes the proposed application of the formula and the hold-harmless provision using preliminary planning estimates for PY 2018.

This notice represents the first of a two-stage process. Upon receipt of public comments regarding this notice, changes to the proposed formula modifications and preliminary planning estimates will be considered. In the second stage, the final formula and final allotment levels will be published in the **Federal Register**.

I. Background

The proposed formula modifications are the result of ETA's review of the formula in the context of the NFJP-eligible population and farm labor market changes, and feedback that ETA received from NFJP grantees.

II. Description of Updated Data Files and Proposed Modifications to the Allotment Formula

As with all State planning estimates since 1999, the PY 2018 estimates will be based on four data sources: (1) State-level, 2012 hired farm labor expenditure data from the United States Department of Agriculture's (USDA) Census of Agriculture (COA); (2) regional-level, 2012 average hourly earnings data from the USDA's Farm Labor Survey (FLS); (3) regional-level, 2006–2014 demographic data from the ETA's National Agricultural Workers Survey (NAWS); and, (4) 2010–2014 (5-year file) data from the United States Census Bureau's American Community Survey. A detailed description of how each data source is used within the formula is in the May 19, 1999 FRN (pages 27396 to 27399).

In addition to populating the formula with more recent data, three modifications are being proposed. The first two are 'back-out' adjustments to the COA hired labor expenditures (Wage Bill) to account for: (1) Unemployment Insurance (UI) payroll tax payments made on behalf of farm workers; and (2) expenditures on H–2A workers. The third modification aligns the allotment formula with the definition of dependent under WIOA Section 167(i)(2)(B) and (3)(B) to account for dependents of Migrant and Seasonal Farmworkers (MSFW) in each State's share of the total eligible population.

These proposed modifications more accurately estimate each State's share of the NFJP-eligible population. Modification 1 removes non-wages from COA farm labor expenditures. UI payroll tax payments, which vary by State, are not wages. Modification 2 removes labor expenditures on H–2A workers from COA farm labor expenditures to align the allotment formula with the NFJP-eligible population. H–2A workers may only be provided emergency services. Modification 3 accounts for eligible dependents ages 14 and over of eligible MSFWs in each State's share of the total NFJP-eligible population.[1]

Under Modification 1, 2012 data from the Quarterly Census of Employment and Wages are used to adjust COA farm labor expenditures. This is accomplished by: (1) Summing, for each State, four quarters of employer UI contributions, separately for crop agriculture (Crop Production (NAICS 111) and Support Activities for Crop Production (NAICS 1151)) and animal agriculture (Animal Production (NAICS 112) and Support Activities for Animal Production (NAICS 1152)); and (2) subtracting the UI taxes from each State's COA farm labor expenditures in these sectors.

For the 48 States, UI payroll tax payments (contributions) in crop agriculture totaled $469,020,138, or 2.02 percent of COA hired and contract labor expenditures in crop agriculture of $23,257,671,553.[2] UI contributions in crop agriculture ranged from $210,085 in Delaware to $237,819,454 in California. In animal agriculture, UI contributions totaled $76,014,437, or 0.75 percent of COA hired and contract labor expenditures in animal agriculture of $10,190,832,196. UI contributions in animal agriculture ranged from $50,614

[1] NAWS is administered to focus on crop workers age 14 and over, which also aligns with the age criteria for NFJP eligible dependents.

[2] The proposed formula modifications cannot be applied to Alaska and Hawaii because the formula itself is not used to determine Alaska's and Hawaii's share of the NFJP allocation. According to the December 22, 1998 and May 19, 1999 **Federal Register** Notices, Alaska, Hawaii, and Puerto Rico, are treated differently due to the absence of one or more of the four data sources that are available for the ''conterminous 48 States.'' Therefore, ETA does not 'back out' Unemployment Insurance payroll taxes or H–2A labor expenditures from Alaska's and Hawaii's labor expenditures because labor expenditures are not used to determine Alaska's and Hawaii's allocation.

in Delaware to $12,559,739 in California.

For Modification 2, 2012 data from ETA's Office of Foreign Labor Certification's H–2A case disclosure file are used to adjust 2012 COA hired labor expenditures to account for expenditures on H–2A workers. This is accomplished by: (1) Calculating the wages paid to H–2A workers in each State, separately for crop and animal agriculture; and (2) subtracting the resulting H–2A wages from each State's COA hired farm labor expenditures for crop and animal agriculture.

For the 48 States, H–2A wages in crop agriculture totaled $568,898,447, or 2.45 percent of COA hired and contract labor expenditures in crop agriculture of $23,257,671,553. H–2A wages in crop agriculture ranged from $23,452 in Rhode Island to $66,982,024 in North Carolina. In animal agriculture H–2A wages totaled $37,431,699, or 0.37 percent of COA hired and contract labor expenditures in animal agriculture of $10,190,832,196. H–2A wages in animal agriculture ranged from $0 (12 States) to $9,867,520 in Louisiana.

In Modification 3, four steps are taken to include eligible dependents of eligible MSFWs in each state's share of the total NFJP-eligible crop worker population. First, utilizing the methodology to estimate each State's number (people-denominated index) of NFJP-eligible crop workers, each State's number of MSFW-eligible crop workers is estimated. Next, the average number of eligible dependents per eligible MSFW is estimated for each of the 12 NAWS sampling regions. In step three, the average number of eligible dependents per eligible MSFW (the result from step 2) for each of the 12 NAWS sampling regions is applied to the corresponding States in the region and then multiplied by the corresponding State's estimated number of eligible MSFWs (from step 1) to obtain each State's number of eligible dependents of eligible MSFWs. In the fourth and final step, each State's estimated number of eligible dependents is added to the State's estimated number of NFJP-eligible crop workers to obtain each State's total eligible (crop-worker plus dependents) population and share of the national eligible population.

Unlike Modifications 1 and 2, which pertain to both crop and animal agricultural worker estimates, Modification 3 can only be applied to the eligible population in crop agriculture. There is no national-level survey data on the demographic characteristics of animal agricultural workers to estimate the number of eligible dependents of eligible animal agricultural workers.[3]

III. Description of the Hold-Harmless Provision

For PY 2018, 2019, and 2020, the Department intends to apply a hold-harmless provision to the allotment formula in order to allow a staged transition from the application of the previous formula to the modified formula. The hold-harmless provision provides for a stop loss/stop gain limit to transition to the use of the updated data. Due to the length of time since the data has been updated, it is anticipated there may be significant changes for a few states, necessitating the stop loss/stop gain approach. The stop loss/stop gain approach is based on a State service area's previous year's allotment percentage share, which is its relative share of the total formula allotments. The staged transition of the hold-harmless provision is proposed specifically as follows:

(1) In PY 2018, State service areas will receive an amount equal to at least 95 percent of their PY 2017 allotment percentage share, as applied to the PY 2018 formula funds available;

(2) In PY 2019, State service areas will receive an amount equal to at least 90 percent of their PY 2018 allotment percentage share, as applied to the PY 2019 formula funds available;

(3) In PY 2020, State service areas will receive an amount equal to at least 85 percent of their PY 2019 allotment percentage share, as applied to the PY 2020 formula funds available.

In PY 2018, 2019, and 2020, the hold-harmless provision also provides that no State service area will receive an amount that is more than 150 percent of their previous year's allotment percentage share.

In PY 2021, since the Department has a responsibility to use the most current and reliable data available, amounts for the new awards will be based on updated data from the sources described in Section II, pending their availability. At that time, the Department will determine whether the changes to State allotments are significant enough to warrant another hold-harmless provision. Otherwise, allotments to each State service area will be for an amount resulting from a direct allotment of the proposed funding formula without adjustment.

IV. Minimum Funding Provisions

A State area which would receive less than $60,000 by application of the formula will, at the option of the DOL, receive no allotment or, if practical, be combined with another adjacent State area. Funding below $60,000 is deemed insufficient for sustaining an independently administered program. However, if practical, a State jurisdiction which would receive less than $60,000 may be combined with another adjacent State area.

V. Program Year 2018 Preliminary Allotments

The state allotments set forth in the Table appended to this notice reflect the distribution resulting from the allotment formula described above. For PY 2017, $81,896,000 was appropriated for migrant and seasonal farmworker programs, of which $75,505,575 was allotted on the basis of the old formula after $379,425 was set aside for program integrity. The remaining $5,489,415 of the PY 2017 appropriation was retained to fund housing grants after $27,585 was set aside for program integrity, and $494,000 was retained for Training and Technical Assistance. The figures in the first numerical column show the actual PY 2017 formula allotments to State service areas. The next column shows the percentage of each allotment.

For PY 2018, the funding level provided for in the Consolidated Appropriations Act, 2018 for the migrant and seasonal farmworker program is $81,203,000 and will be allotted on the basis of the proposed formula. For purposes of illustrating the effects of the proposed allotment formula, the State service area allotments with the application of the first-year (95 percent) hold-harmless and minimum funding provisions, followed by the percentages, are shown in columns 3 and 4. The difference between PY 2017 and PY 2018 allotments are shown in column 5. The sixth column of the Table shows the allotments based on the proposed formula without the application of the hold-harmless or minimum funding provisions. The percentages are reported in column 7.

Rosemary Lahasky,

Deputy Assistant Secretary for Employment and Training, Labor.

BILLING CODE 4510–FN–P

[3] Modification 3 is only applied to crop workers. ETA's NAWS, which is a survey of hired crop workers, is the source used in step 2 of this modification to estimate the average number of eligible dependents per eligible MSFW for each of the 12 NAWS sampling regions.

U. S. Department of Labor
Employment and Training Administration
National Farmworker Jobs Program
Impact of Proposed Changes on PY 2018 Allotments to States

State	PY 2017		PY 2018 (UI, H-2A, Dep Adj)				
			With hold harmless			Without hold harmless	
	Allotment (1)	Percentage Share (2)	Allotment (3)	Percentage Share (4)	Difference (PY 2018 vs. PY 2017) (5)	Allotment (6)	Percentage Share (7)
Total	**$75,505,575**	**100.00000**	**$81,203,000**	**100.00000**	**$5,697,425**	**$81,203,000**	**100.00000**
Alabama	764,119	1.01200	780,688	0.96140	16,569	730,431	0.89951
Alaska	-	0.00000	-	0.00000	-	-	0.00000
Arizona	2,057,698	2.72523	2,102,317	2.58896	44,619	2,360,610	2.90705
Arkansas	1,104,657	1.46301	1,128,611	1.38986	23,954	1,028,263	1.26629
California	19,283,115	25.53866	22,119,850	27.24019	2,836,735	25,328,504	31.19159
Colorado	964,874	1.27788	1,066,971	1.31396	102,097	1,221,743	1.50455
Connecticut	340,039	0.45035	347,412	0.42783	7,373	363,493	0.44763
Delaware	122,461	0.16219	142,968	0.17606	20,507	163,707	0.20160
Dist of Columbia	-	0.00000	-	0.00000	-	-	0.00000
Florida	4,000,446	5.29821	4,087,192	5.03330	86,746	4,051,426	4.98926
Georgia	1,478,430	1.95804	1,510,489	1.86014	32,059	1,510,168	1.85974
Hawaii	318,882	0.42233	325,797	0.40121	6,915	308,641	0.38009
Idaho	1,037,089	1.37353	1,410,155	1.73658	373,066	1,614,708	1.98848
Illinois	1,386,739	1.83660	1,416,809	1.74477	30,070	1,258,641	1.54999
Indiana	891,099	1.18018	910,422	1.12117	19,323	851,893	1.04909
Iowa	1,135,326	1.50363	1,159,945	1.42845	24,619	1,197,979	1.47529
Kansas	1,037,193	1.37366	1,059,684	1.30498	22,491	932,795	1.14872
Kentucky	1,168,337	1.54735	1,193,671	1.46998	25,334	916,252	1.12835
Louisiana	878,803	1.16389	897,859	1.10570	19,056	714,233	0.87956
Maine	282,793	0.37453	288,925	0.35581	6,132	298,953	0.36816
Maryland	349,786	0.46326	372,807	0.45910	23,021	426,886	0.52570
Massachusetts	310,726	0.41153	317,464	0.39095	6,738	327,720	0.40358
Michigan	1,350,141	1.78813	1,643,042	2.02338	292,901	1,881,378	2.31688
Minnesota	1,190,716	1.57699	1,261,106	1.55303	70,390	1,444,039	1.77831
Mississippi	1,251,630	1.65767	1,278,771	1.57478	27,141	881,458	1.08550
Missouri	951,239	1.25983	971,866	1.19684	20,627	735,337	0.90555
Montana	576,293	0.76325	588,789	0.72508	12,496	569,740	0.70162
Nebraska	1,049,996	1.39062	1,072,764	1.32109	22,768	963,191	1.18615
Nevada	173,439	0.22970	177,200	0.21822	3,761	174,914	0.21540
New Hampshire	98,352	0.13026	100,485	0.12375	2,133	104,283	0.12842
New Jersey	671,802	0.88974	686,369	0.84525	14,567	692,314	0.85257
New Mexico	913,490	1.20983	933,298	1.14934	19,808	984,481	1.21237
New York	1,598,538	2.11711	1,633,201	2.01126	34,663	1,439,972	1.77330
North Carolina	2,596,474	3.43878	2,652,776	3.26684	56,302	2,239,643	2.75808
North Dakota	586,161	0.77631	598,871	0.73750	12,710	587,836	0.72391
Ohio	1,215,667	1.61004	1,242,028	1.52953	26,361	1,053,237	1.29704
Oklahoma	1,228,006	1.62638	1,254,634	1.54506	26,628	905,881	1.11558
Oregon	1,902,686	2.51993	2,002,379	2.46589	99,693	2,292,839	2.82359
Pennsylvania	1,490,645	1.97422	1,522,968	1.87551	32,323	1,641,496	2.02147
Puerto Rico	2,950,975	3.90829	3,014,964	3.71287	63,989	2,279,197	2.80679
Rhode Island	37,337	0.04945	48,174	0.05933	10,837	55,162	0.06793
South Carolina	932,956	1.23561	953,186	1.17383	20,230	726,773	0.89501
South Dakota	598,476	0.79262	611,453	0.75299	12,977	459,200	0.56550
Tennessee	827,313	1.09570	845,253	1.04091	17,940	759,476	0.93528
Texas	6,438,740	8.52750	6,578,359	8.10113	139,619	5,215,352	6.42261
Utah	279,058	0.36959	377,175	0.46448	98,117	431,888	0.53186
Vermont	184,099	0.24382	188,091	0.23163	3,992	173,536	0.21371
Virginia	895,239	1.18566	914,652	1.12638	19,413	855,978	1.05412
Washington	2,981,590	3.94883	3,694,488	4.54969	712,898	4,230,402	5.20966
West Virginia	189,444	0.25090	193,552	0.23836	4,108	110,778	0.13642
Wisconsin	1,206,739	1.59821	1,292,453	1.59163	85,714	1,479,933	1.82251
Wyoming	225,722	0.29895	230,617	0.28400	4,895	226,240	0.27861

[FR Doc. 2018–10955 Filed 5–22–18; 8:45 am]
BILLING CODE 4510–FN–C

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0004]

Proposed Extension of Information Collection; Roof Control Plan for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Roof Control Plan for Underground Coal Mines.

DATES: All comments must be received on or before July 23, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0002.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL—Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Section 302(a) of the Mine Act, requires that a roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine be first approved by the Secretary before implementation by the operator. The plan must show the type of support and spacing approved by the Secretary, and the plan must be reviewed at least every six months by the Secretary.

This information collection addresses the recordkeeping associated with:

75.220(a)(1)—Roof control plan
75.221(1)(2)—Roof control plan information
75.222(a)—Roof control plan-approval
75.223(a), (b), & (d)—Evaluation and revision of roof control plan.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Roof Control Plan for Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL—Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Roof Control Plan for Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0004.

Affected Public: Business or other for-profit.

Number of Respondents: 211.

Frequency: On occasion.

Number of Responses: 1,450.

Annual Burden Hours: 4,513 hours.

Annual Respondent or Recordkeeper Cost: $5,025.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–11040 Filed 5–22–18; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before June 22, 2018.

ADDRESSES: You may submit your comments, identified by ''docket

number'' on the subject line, by any of the following methods:

1. *Email: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2018–014–C.

Petitioner: Greenbrier Minerals, LLC, P.O. Box 446, Man, West Virginia 25635.

Mine: Powellton No. 1 Mine, MSHA I.D. No. 46–09217, located in Logan County, West Virginia.

Regulation Affected: 30 CFR 75.310(b)(1) (Installation of main mine fans).

Modification Request: The petitioner requests a modification of the existing standard to allow the Powellton No. 1 Mine to feed power from a new, isolated surface substation via borehole feed to replenish power for future mine advancement and to provide power for the No. 3 Coal Branch fan installation.

The petitioner states that:

(1) Feeding of power will be from an isolated surface substation dedicated only to the borehole feed. This feed circuit will be a three-phase, 12.47 KV High-Voltage Circuit that is run on open wire and poles with neutral and pilot, with the pilot wire mounted on separate insulators the entire length. The system circuit breaker will be controlled by an SEL–501–2 Digital Fault Relay, and wire and cable grounds will be monitored by an MCI 22701 impedance monitor.

(2) A surface Gang Operated Air Break (GOAB) switch is located at the top of the borehole with Lightning Arrestors on each phase. The Lightning Arrestors will be grounded by attaching a 15 KV rated cable that will be placed at a minimum of 25 feet away from the borehole structure or station ground field.

(3) The borehole cable will be a Mine Power Feeder (MPF) constructed cable, 15 KV, 4/0–3 Conductor SHD (Shield) GGC. The cable will be hung by wire messenger and supported at the top rim and every subsequent 100 feet span. All messenger and apparatus at the borehole location will be grounded to the station ground field in accordance with current MSHA, West Virginia Office of Miners HS&T, and applicable NEC Code regulations.

(4) At the exit of the bottom of the borehole, the cable will enter a Mining Controls, Dual Vacuum Breaker Switch House (A). The switch house features AEEI A8200, diode terminated, ground monitors and SEL–751A Digital Fault Relays. It will also feature three phase Tavrida Electric Vacuum Breakers rated 800A, 15KV, 20kAIC.

(5) One circuit from the Dual Vacuum Switch House (A) will be dedicated to feed into a second Dual Vacuum Switch House (B) which will send refreshed power to petitioner's Section 2 and Section 3 Continuous Miner Sections. This switch house features AEEI A8200, diode terminated, ground monitors and SEL–501–2 Digital Fault Relays. It will also feature three phase MCI Electric Vacuum Breakers rated 600A, 15KV, 20kAIC.

(6) The other circuit from the Dual Vacuum Switch House (A) will be dedicated to feed only the fan circuit which is approximately 12,000 feet to the portal. The supplying cable will be a Mine Power Feeder (MPF) constructed cable, 15 KV, 4/0–3 Conductor SHD (Shield) GGC. The cable will be terminated at a Pole Mounted, GOAB Switch with Lightning Arrestors. The lightning arrestors will be grounded by attaching a 15 KV rated cable that will be placed at a minimum of 25 feet away from all station grounds. The pilot and ground will be terminated in an enclosure with an ''Emergency Stop'' switch located near the fan controls.

(7) Power will enter on the primary side of a set of three 167KVA (12.4KV–Delta X 480V–WYE) pole mounted transformer cans. These cans are fuse protected and have lightning arrestors for each phase. These lightning arrestors will be grounded by attaching a 15 KV rated cable that will be placed at a minimum of 25 feet away from station grounds. The secondary side of the transformers (480V AC) will feed into a (Fully Automated Transfer Switch) and then to the Fan VFD Motor Starter, that will power the 250 horsepower fan motor.

(8) The alternate power source is a Caterpillar Generator XQ300–C9 (300 KW) feeding the fully automatic transfer switch 480V AC power anytime there is a power interruption. The generator will start, the transfer switch will switch to generator supplied power, and the whole process takes approximately 39 seconds for the fan to be running at the set capacity. The generator has a fuel tank capacity of 430 gallons and the fan has a fuel consumption rate of 18.6 gallons per hour. Therefore, the fan can run from the generator for approximately 23 hours from the onboard tank. There is also an additional supply tank to fill the generator tank that holds 1,000 gallons of fuel, providing an additional run time of 53 hours plus. This will allow time to troubleshoot, repair, test, and reenergize the High-Voltage Feeder Circuit or have additional fuel delivered to the site.

(9) All normal backup notification systems will be installed including radio remote warning signals that the fan is not running, fiber-optic communication, and security cameras monitoring the site.

(10) The petitioner operates the affected underground coal mine which additional power feeds are required to replenish power to two working sections and supply power to the #3 Coal Branch Fan Installation.

(11) The #3 Coal Branch Fan will be installed to meet Ventilation Plan requirements as set forth in petitioner's Ventilation Plan.

(12) There is no Three-Phase Utility Power of any voltage available within 9.5 miles.

(13) The borehole location is very remote, approximately 2.2 miles from the substation location, thus would be considered a security risk for damage should the substation be placed there. Mine personnel can be at the borehole location in approximately 45 minutes vs. 5 minutes travel to the current location that is located behind the Preparation Plant of the Main Substation.

(14) Mining is being conducted by another mining company which intersects with Greenbrier Minerals property line. Petitioner states that it could get right of way to build across the other company property line but in subsequent years would have to move two sections of power line, and our substation would be in a blasting area that could lead to damage from flying debris, air-shock, and ground vibrations.

(15) The petitioner requests that the Powellton #1 Mine be allowed to feed both mine power systems and petitioner's #3 Coal Branch Fan Installation on one system where such occurrences of a fault trip on the main feed would be kept to a minimum by utilizing the dual series vacuum breaker configuration. In those rare instances where the dual vacuum breaker configuration should fail, petitioner has included a fully automatic system with a transfer switch and generator that will restore power to the #3 Coal Branch Fan in less than one minute.

(16) The proposed modification would not only ensure operable ventilation, it would also ensure through weekly functional testing that the alternate power supply would function as intended and adequately maintain mine ventilation.

The petitioner asserts that the proposed alternative method will achieve the purpose of the existing standard and will always guarantee no less than the same measure of protection afforded by the standard.

Docket Number: M–2018–005–M.

Petitioner: Solvay Chemicals, Inc., P.O. Box 1167, 400 County Road 85, Green River, Wyoming 82935.

Mine: Solvay Chemicals, Inc. Mine, MSHA I.D. No. 48–01295, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 57.4760(a) (Shaft mines).

Modification Request: The petitioner states that the fire control doors located near the #3 shaft in this Class III Gassy Mine presents a diminution of safety to the miners because the installation of control doors or the reversal of mechanical ventilation would affect the main air currents and splits, thus adversely impacting the ventilation system's ability to render and dilute concentrations of toxic gases or methane gas. Additionally, the installation of control doors or the reversal of mechanical ventilation can only be achieved by shutting down the mine's main exhaust fans. Due to the expanse of the mine, evacuation of all personnel underground to the surface in ten minutes or less is not an alternative means of compliance with the standard.

The petitioner seeks to remove the fire control doors and requests a modification of the existing standard to permit the use of alternative controls in lieu of the installation of control doors.

The petitioner states that:

(1) It requests a modification of 30 CFR 57.4760(a), that authorizes the petitioner to establish an alternative method in lieu of the mandatory safety standard. The petitioner considers the following alternatives to the installation of control doors as acceptable means to control the spread of fire, smoke, and toxic gases underground in the event of a fire specific to the petitioner's mine:

(a) The petitioner currently has four shafts constructed of non-combustible materials. All four existing shafts will be provided with a means of hoisting mine personnel. At all times, two properly maintained escapeways to the surface from the lowest levels will be maintained.

(b) Conveyor belting used underground will be 2G compliant or meet the equivalent flame spread rating.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will provide the same measure of protection afforded by the standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2018–11037 Filed 5–22–18; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0103]

Proposed Extension of Information Collection; Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres.

DATES: All comments must be received on or before July 23, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0005.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for

the protection of life and prevention of injuries in coal or other mines.

Methane is a flammable gas found in underground mines in the United States. Although methane is often associated with underground coal mines, it also occurs in some metal and nonmetal mines. Underground metal and nonmetal mines are categorized according to the potential to liberate methane (30 CFR 57.22003—Mine category or subcategory). Methane is a colorless, odorless, tasteless gas, and it tends to rise to the roof of a mine because it is lighter than air. Although methane itself is nontoxic, its presence reduces the oxygen content by dilution when mixed with air and, consequently, can act as an asphyxiant when present in large quantities.

Methane may enter the mining environment from a variety of sources including fractures, faults, or shear zones overlying or underlying the strata that surround the ore body, or from the ore body itself. It may occur as an occluded gas within the ore body. Methane mixed with air is explosive in the range of 5 to 15 percent, provided that 12 percent or more oxygen is present. The presence of dust containing volatile matter in the mine atmosphere may further enhance the explosion potential of methane in a mine. Section 103(i) of Mine Act requires additional inspections be conducted at mines depending on the amount of methane liberated from a mine.

Title 30 CFR 57.22004(c) requires operators of underground metal and nonmetal mines to notify MSHA as soon as possible if any of the following events occur: (a) There is an outburst that results in 0.25 percent or more methane in the mine atmosphere, (b) there is a blowout that results in 0.25 percent or more methane in the mine atmosphere, (c) there is an ignition of methane, or (d) air sample results indicate 0.25 percent or more methane in the mine atmosphere of a I–B, I–C, II–B, V–B, or Category VI mine. Under sections 57.22239 and 57.22231, if methane reaches 2.0 percent in a Category IV mine or if methane reaches 0.25 percent in the mine atmosphere of a Subcategory I–B, II–B, V–B, or VI mine, MSHA shall be notified immediately. Although the standards do not specify how MSHA is to be notified, MSHA anticipates that the notifications would be made by telephone.

Title 30 CFR 57.22229 and 57.22230 require that the mine atmosphere be tested for methane and/or carbon dioxide at least once every seven days by a competent person or atmospheric monitoring system or a combination of both. Section 57.2229 applies to underground metal and nonmetal mines categorized as I–A, III, and V–A mines where the atmosphere is tested for both methane and carbon dioxide. Section 57.22230 applies to underground metal and nonmetal mines categorized as II–A mines where the atmosphere is tested for methane. Where examinations disclose hazardous conditions, affected miners must be informed. Title 30 CFR 57.22229(d) and 57.22230(c) require that the person performing the tests certify by signature and date that the tests have been conducted. Certifications of examinations shall be kept for at least one year and made available to authorized representatives of the Secretary of Labor.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0103.

Affected Public: Business or other for-profit.

Number of Respondents: 4.

Frequency: On occasion.

Number of Responses: 213.

Annual Burden Hours: 19 hours.

Annual Respondent or Recordkeeper Cost: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–11038 Filed 5–22–18; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0119]

Proposed Extension of Information Collection; [Diesel-Powered Equipment in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the

information collection for Diesel-Powered Equipment in Underground Coal Mines.

DATES: All comments must be received on or before July 23, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

• *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0008.

• *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.

• *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

MSHA requires mine operators to provide important safety and health protections to underground coal miners who work on and around diesel-powered equipment. The engines powering diesel equipment are potential contributors to fires and explosion hazards in the confined environment of an underground coal mine where combustible coal dust and explosive methane gas are present. Diesel equipment operating in underground coal mines also can pose serious health risks to miners from exposure to diesel exhaust emissions, including diesel particulates, oxides of nitrogen, and carbon monoxide. Diesel exhaust is a lung carcinogen in animals.

Information collection requirements are found in: section 75.1901(a) Diesel fuel requirements; section 75.1911 (j) Fire suppression systems for diesel-powered equipment and fuel transportation units; section 75.1912 (i) Fire suppression systems for permanent underground diesel fuel storage facilities; sections 75.1914(f)(1), (f)(2), (g)(5), (h)(1), and (h)(2) Maintenance of diesel-powered equipment; sections 75.1915(b)(5), (c)(1), and (c)(2) Training and qualification of persons working on diesel-powered equipment.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Diesel-Powered Equipment in Underground Coal Mines. MSHA is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Diesel-Powered Equipment in Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0119.

Affected Public: Business or other for-profit.

Number of Respondents: 112.

Frequency: On occasion.

Number of Responses: 161,209.

Annual Burden Hours: 13,080 hours.

Annual Respondent or Recordkeeper Cost: $299,460.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–11039 Filed 5–22–18; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2018–038]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by June 22, 2018. Once NARA finishes appraising the records,

we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Energy, Federal Energy Regulatory Commission (DAA–0138–2018–0006, 1 item, 1 temporary item). Records relating to the oversight of regional electricity providers including orders, notices, comments, general correspondence, and associated documents.

2. Department of Homeland Security, Transportation Security Administration (DAA–0560–2016–0006, 1 item, 1 temporary item). Records related to passenger complaints, including discrimination allegations, arising during security screening.

3. Department of the Treasury, Bureau of Fiscal Service (DAA–0425–2017–0003, 9 items, 7 temporary items). Office of Fiscal Accounting records related to routine financial reporting, accounting, and program management. Proposed for permanent retention are significant policy directives and high-level consolidated financial reports.

4. Department of Veterans Affairs, Veterans Health Administration (DAA–0015–2018–0004, 1 item, 1 temporary item). Records documenting the completion of agency-provided professional health care training.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2018–10984 Filed 5–22–18; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** on February 21, 2018, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 7th Street NW, Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Room W18000 Alexandria, Virginia 22314, or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling Ms. Plimpton at (703) 292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Developing an Evaluation Framework and Pilot-Testing a Longitudinal Tracking System for REU Site Students.

OMB Control Number: 3145–NEW.

Abstract: The National Science Foundation (NSF) seeks to develop and pilot test different approaches to collecting data electronically from one cohort of applicants to the Research Experiences for Undergraduates (REU) Program and track their program and career outcomes over time. The intent is for the pilot tests to provide information for NSF to select the most effective and least burdensome approach to collect data needed to monitor the Program, report to NSF leadership, and comply with a Congressional requirement.

The REU program was created in 1987 to strengthen the science, technology, engineering, and mathematics (STEM) workforce. Building on research experiences as ''one of the most effective avenues for attracting students to and retaining them in science and engineering, and for preparing them for careers in these fields,'' the program is designed to foster student research and promote diversity.

The main goal of the current study is to pilot test alternative approaches to collecting data required by Congress in the America COMPETES Reauthorization Act of 2010, which states that students in the REU program must ''be tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least three years thereafter'' (Section 514[a][6] of Public Law 111–358). The legislation also mentions specific demographic characteristics of participants that need to be reported, such as gender, ethnicity, and enrollment in a two-year college. In addition to needing these data to report to Congress, NSF program officers and leadership need a more robust data system to enhance their efforts to monitor participation in the program and eventually to assess its effectiveness.

In addition to designing the system, the present study will pilot test different approaches to collecting data from a sample of REU Sites that volunteer to participate. By participating in this study, these Sites will have the opportunity to experience the data collections first hand and provide feedback that will be used to determine which approach will be the most effective, most efficient, and least burdensome for possible future implementation across all REU Sites.

The pilot includes:

1. Testing a web-based system that includes two approaches to obtain basic student background and participation information:

- Registration. The registration will be designed to collect the basic demographic and contact information needed for analysis and tracking purposes. Students will be asked to register at a website through which they will obtain a unique ID. With this unique ID, they will then apply directly to the REU Sites using the existing Site application processes. Staff at REU Sites will use the IDs provided by students to record application decisions and participation status of admitted applicants.
- Common Application. The common application will replace existing REU Site applications among participating Sites for the 2019 cycle. It will enable students to apply to multiple Sites through one application. Students will first complete the REU Registration described above, and then proceed to the common application through which they will submit additional information commonly required by Sites as part of their applications, such as transcripts. Staff at REU Sites will use the system to provide information needed by potential applicants, retrieve applicant information, record application decisions and participation status among admitted applicants, and produce reports and run queries of data submitted by applicants to their Sites.

2. Obtaining and integrating educational and employment information. The study will follow the subset of rising seniors who participate in the REU program in 2019 (as seniors are the large majority of participants) to:

- Obtain educational outcomes information from the National Student Clearinghouse (NSC)
- Administer a survey to obtain information on employment outcomes (among those not enrolled in graduate school at the time of the survey)

3. Conducting site visits to a few REU Sites participating in the pilot to interview principal investigators and program administrators, and to conduct focus groups with REU students. The site visits will be used to elicit in-depth feedback on the registration and common application systems as well as the tools available for PIs to obtain data and reports through the REU data system.

Estimate of Burden: At present, applications to the REU program are submitted yearly directly to each Site. For those participating in the registration pilot, it is estimated that applicants will spend 2 hours submitting basic information through the REU Data System and then complete the rest of their applications through the individual REU sites. For those participating in the common application pilot, it is estimated that each submission will take, on average, 12 hours. Reference writers are expected to take 0.5 hours to draft a letter in support of students' application to the program. It is estimated that REU Principal Investigators will spend 8.9 hours using the system to track applications.

Respondents: Individuals.

Estimated Number of Respondents: 30,455.

Estimated Total Annual Burden on Respondents: 96,130 hours.

Frequency of Responses: One round of pilot data collection.

Dated: May 18, 2018.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2018–11036 Filed 5–22–18; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–221; CP2018–222; MC2018–154 and CP2018–223]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 25, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–221; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date:* May 17, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 25, 2018.

2. *Docket No(s).:* CP2018–222; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* May 17, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 25, 2018.

3. *Docket No(s).:* MC2018–154 and CP2018–223; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 37 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 17, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* May 25, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–11012 Filed 5–22–18; 8:45 am]

BILLING CODE 7710–FW–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 23, 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 17, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 37 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–154, CP2018–223.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–10985 Filed 5–22–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83273; File No. SR–NYSEAMER–2018–21]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.4E To Reflect the Standard Settlement Cycle of Two Business Days After the Trade Date

May 17, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 11, 2018, NYSE American LLC (''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.4E to reflect the standard settlement cycle of two business days after the trade date (''T+2'') in Securities Exchange Act Rule 15c6–1(a). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.4E to reflect the standard T+2 settlement cycle in Securities Exchange Act (the ''Act'') Rule 15c6–1(a) (''Rule 15c6–1(a)'').

Background

On September 28, 2016, the Securities and Exchange Commission (''SEC'') proposed amendments to Rule 15c6–1(a) under the Act [4] to shorten the standard settlement cycle from three business days after the trade date (''T+3'') to T+2.[5] The amendment was adopted on March 22, 2017, with a compliance date of September 5, 2017.[6]

In response, the Exchange adopted new rules with the modifier ''T'' to reflect a T+2 settlement cycle but retained versions of rules reflecting T+3 settlement because the Exchange would not implement the new rules until after the final implementation of T+2.[7]

Rule 7.4E (Ex-Dividend or Ex-Right Dates), which establishes the ex-dividend and ex-rights dates for stocks traded regular way in connection with the implementation of Pillar on the Exchange, was approved in May 2017.[8] The Exchange began trading on the Pillar platform on July 24, 2017.

In connection with the September 5, 2017 compliance date for shortening of the standard settlement cycle from T+3 to T+2, the Exchange deleted the rules reflecting the T+3 settlement cycle and implemented the new rules reflecting the T+2 settlement cycle. The Exchange, however, inadvertently did not update Rule 7.4E to reflect T+2 settlement, which it currently proposes to do.

To effectuate the proposed change, the Exchange proposes to delete the word ''second'' so the reference would be to the ''business day'' preceding the record date. The current Rule further provides that if the record date or closing of transfer books occurs upon a day other than a business day, the Rule shall apply for the third preceding business day. The Exchange also proposes to change ''third preceding business day'' to ''second preceding business day.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and further the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, 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 proposed change is consistent with the SEC's amendment to Rule 15c6–1(a) requiring standard settlement no later than T+2. The Exchange believes that removing obsolete references to T+3 settlement from the Exchange's rulebook removes impediments to and perfects the mechanism of a free and open market, thereby reducing potential confusion, making the Exchange's rules easier to navigate. The Exchange believes that eliminating obsolete material would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiving the operative delay will allow the Exchange to immediately conform its rule to Rule 15c6–1(a) under the Act, that has a standard settlement cycle of T+2, and eliminate outdated references to the T+3 settlement cycle. Accordingly, the Commission hereby waives the 30-day operative delay requirement and

[4] *See* 17 CFR 240.15c6–1(a).

[5] *See* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (File No. S7–22–16).

[6] *See* Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (File No. S7–22–16).

[7] *See* Securities Exchange Act Release No. 80020 (February 10, 2017), 82 FR 10940 (February 16, 2017) (SR–NYSEMKT–2016–119).

[8] *See* Securities Exchange Act Release Nos. 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (Approval Order) and 79993 (February 9, 2017), 82 FR 10814,10815–16 (February 15, 2017) (SR–NYSEMKT–2017–01) (Notice). Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. and New York Stock Exchange LLC.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposed rule change as operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–21, and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10974 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83269; File No. SR–ISE–2018–45]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .03 to Rule 804 To Enhance Anti-Internalization Functionality

May 17, 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 2, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The 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 Supplementary Material .03 to Rule 804 to enhance anti-internalization functionality.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enhance the anti-internalization (''AIQ'') functionality provided to Market Makers on the Exchange by giving members the flexibility to choose to have this protection apply at the market participant identifier level (*i.e.,* existing functionality),[3] at the Exchange account level, or at the member firm level. The Exchange believes that this enhancement will provide helpful flexibility for Market Makers that wish to prevent trading against all quotes and orders entered by their firm, or Exchange account, instead of just quotes and orders that are entered under the same market participant identifier. Similar functionality was also recently introduced on the Exchange's affiliated exchanges, Nasdaq PHLX LLC (''Phlx'') and NOM.[4] The Exchange believes that introducing this functionality now on ISE will ensure that ISE Market Makers on will benefit from similar flexibility in applying this protection.

Currently, the Exchange provides mandatory AIQ functionality whereby quotes and orders entered by Market Makers using the same market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Currently, the rule uses the term ''member identifier'' for this concept. The Exchange proposes to rename ''member identifier'' to ''market participant identifier'' to be consistent with terminology used on the Nasdaq Options Market (''NOM'') and to avoid member confusion that could result in using the similar terms ''member identifier'' and ''member firm identifier'' in this rule.

[4] *See* Phlx Rule 1080(p)(2); NOM Chapter VI, Sec. 10. *See also* Securities Exchange Act Release Nos. 82012 (November 3, 3017), 82 FR 52082 (November 9, 2017) (SR–Phlx–2017–93); 81171 (July 19, 2017), 82 FR 34557 (July 25, 2017) (SR–Nasdaq–2017–069).

participant identifier will not be executed against quotes and orders entered on the opposite side of the market by the same Market Maker using the same market participant identifier.[5] When a quote or order entered by a Market Maker would trade with other quotes or orders from the same market participant identifier, the trading system cancels the resting quote or order back to the entering party prior to execution.[6] This functionality shall not apply in any auction or with respect to complex order transactions. AIQ assists Market Makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable buy and sell trading interest from the same firm when performing the same market making function.

Today, this protection prevents Market Makers from trading against their own quotes and orders at the market participant identifier level. The proposed enhancement to this functionality would allow members to choose to have this protection applied at the market participant identifier level as implemented today, at the Exchange account level, or at the member firm level. If members choose to have this protection applied at the Exchange account level, AIQ would prohibit quotes and orders from different market participant identifiers associated with the same Exchange account from trading against one another. Similarly, if the members choose to have this protection applied at the member firm level, AIQ would prohibit quotes and orders from different market participant identifiers within the member firm from trading against one another. Members that do not select to have this protection applied at the Exchange account level or member firm level will have their AIQ protection defaulted to the market participant identifier level protection applied today. The Exchange believes that the proposed AIQ enhancement will provide members with more tailored self-trade functionality that allows them to manage their trading as appropriate based on the members' business needs. While the Exchange believes that some firms will want to restrict AIQ to trading against interest from the same market participant identifier—*i.e.,* as implemented today—the Exchange believes that other firms will find it helpful to be able to configure AIQ to apply at the Exchange account level or at the member firm level so that they are protected regardless of which market participant identifier the order or quote originated from. Similar flexibility is offered on the Exchange's affiliates, Phlx and NOM, and also on the CBOE BZX Exchange, Inc. (''BZX''), which provides members the ability to apply Match Trade Prevention (''MTP'') modifiers—*i.e.,* BZX's version of self-trade protection—based on market participant, Exchange Member, trading group, or Exchange Sponsored Participant identifiers.[7]

The examples below illustrate how AIQ would operate based on the market participant identifier level protection, the Exchange account level, or for members that choose to apply AIQ at the member firm level:

Example 1

1. Member ABC (market participant identifier 123A & 555B) with AIQ configured at the market participant identifier level.

2. 123A Quote: $1.00 (5) × $1.10 (20).

3. 555B Buy Order entered for 10 contracts at $1.10.

4. 555B Buy Order executes 10 contracts against 123A Quote. 123A and 555B are not prevented by the system from trading against one another because Member ABC has configured AIQ to apply at the market participant identifier level. This is the same as existing functionality.

Example 2

1. Member ABC (Account 999 with market participant identifiers 123A and 555B, and Account 888 with market participant identifier 789A) with AIQ configured at the Exchange account level.

2. 123A Quote: $1.00 (5) × $1.10 (20).

3. 789A Quote: $1.05(10) × $1.10 (20).

4. 555B Buy Order entered for 30 contracts at $1.10.

5. 555B Buy Order executes against 789A Quote but 555B Buy Order does not execute against 123A Quote. AIQ purges the 123A Quote and the remaining contracts of the 555B Buy Order rests on the book at $1.10. 123A and 555B are not permitted trade against one another because Member ABC has configured AIQ to apply at the Exchange account level. This is new functionality as the member has opted to have AIQ operate at the Exchange account level.

Example 3

1. Same as Example 2 above but Member ABC has AIQ configured at the member level.

2. AIQ purges the 123A Quote and the 789A Quote and the 555B Buy Order rests on the book at $1.10. This is new functionality as the member has opted to have AIQ operate at the member level.

Implementation

The Exchange proposes to launch the AIQ functionality described in this proposed rule change in either Q2 or Q4 2018. The Exchange will announce the implementation date of this functionality in an Options Trader Alert issued to members prior to the launch date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[9] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 consistent with the protection of investors and the public interest as it is designed to provide Market Makers with additional flexibility with respect to how to implement self-trade protections provided by AIQ. Currently, all Market Makers are provided functionality that prevents quotes and orders from one market participant identifier from trading with quotes and orders from the same market participant identifier. This allows Market Makers to better manage their order flow and prevent undesirable executions where the Market Maker, using the same market participant identifier, would be on both sides of the trade. While this functionality is helpful to our members, some members would prefer not to trade with quotes and orders entered by different market participant identifiers within the same Exchange account or member. Thus, the Exchange is proposing to provide members with flexibility with respect to how AIQ is implemented. While members that like the current

[5] *See* Supplementary Material .03 to Rule 804. This functionality shall not apply in any auction or with respect to complex order transactions.

[6] *Id.* A quote or order entered by a Market Maker only triggers AIQ when it would trade with other quotes or orders from the same Market Maker. Thus, an incoming quote or order entered by a Market Maker may interact with other interest with priority on the book prior to triggering AIQ. After AIQ is triggered, the incoming quote or order may continue to trade with resting interest from other participants.

[7] *See* BZX Rule 21.1(g).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

functionality can continue to use it, members who would prefer to prevent self-trades across different market participant identifiers within the same Exchange account or at the member level will now be provided with functionality that lets them do this. Similar flexibility is offered on Phlx and NOM, as well as BZX.[10] The Exchange believes that flexibility to apply AIQ at the Exchange account or member firm level would be useful for the Exchange's members too. The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade and will remove impediments to and perfect the mechanisms of a free and open market as it will further enhance self-trade protections provided to Market Makers similar to those protections provided on other markets. This functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to enhance AIQ functionality provided to Exchange Market Makers, and will benefit members that wish to protect their quotes and orders against trading with other quotes and orders within the same Exchange account or member, rather than the more limited market participant identifier standard applied today. The new functionality, which provides similar flexibility to that offered on Phlx, NOM, and BZX, is also completely voluntary, and members that wish to use the current functionality can also continue to do so. The Exchange does not believe that providing more flexibility to members will have any significant impact on competition. In fact, the Exchange believes that the proposed rule change is evidence of the competitive environment in the options industry where exchanges must continually improve their offerings to maintain competitive standing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[10] *See* supra notes 4 and 7.

[11] 15 U.S.C. 78f(b)(8).

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)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–ISE–2018–45 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–ISE–2018–45. 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–ISE–2018–45 and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10970 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83279; File No. SR–GEMX–2018–09]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce the ATR Protection for Orders That Are Routed to Away Markets

May 17, 2018.

I. Introduction

On February 26, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''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 Exchange Rule 714

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

regarding the Acceptable Trade Range (''ATR'') functionality for orders that are routed to away markets. The proposed rule change was published for comment in the **Federal Register** on March 14, 2018.[3] On April 23, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety.[4] On April 26, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to June 22, 2018.[5] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1[6]

The ATR is a functionality designed to prevent the Exchange's System[7] from experiencing dramatic price swings by preventing the execution of orders beyond set thresholds.[8] Pursuant to Exchange Rule 714(b)(1), the System calculates an ATR to limit the range of prices at which an order or quote will be allowed to execute.[9] Upon receipt of a new order or quote, the ATR is calculated by taking the reference price, plus or minus a value to be determined by the Exchange, where the reference price is the NBB for sell orders/quotes and the NBO for buy orders/quotes.[10] Accordingly, the ATR is: The reference price—(x) for sell orders/quotes; and the reference price + (x) for buy orders.[11] If an order or quote reaches the outer limit of the ATR without being fully executed, then any unexecuted balance will be cancelled.[12]

The Exchange states that, currently, the System calculates a reference price for an incoming order or quote only when that order or quote rests or trades on the regular order book.[13] Accordingly, orders that route to away exchanges do not always receive the ATR. Orders that first trade on the Exchange prior to being routed away receive the ATR, but orders that are routed away upon entry (or otherwise do not rest or trade on the regular order book) are not currently subject to the ATR.[14]

The Exchange now proposes to amend the ATR to modify how it applies to orders that are routed by the Exchange. First, the Exchange proposes to apply the ATR to orders that are routed to away markets without first trading on the Exchange.[15] This means that, unlike today, the System will calculate an ATR for orders even if the order does not rest or trade on the regular order book prior to being routed.[16]

In addition, the Exchange proposes that, for orders routed to away markets pursuant to the Supplementary Material to Exchange Rule 1901,[17] if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR would be calculated based on the reference price at that time.[18] The Exchange notes that the NBB or NBO price for a security may change during the ''Flash'' auction process described in Supplementary Material .02 to Rule 1901, and the proposed rule change would provide additional protection if the reference price was improved at the time the order is routed.[19] Similarly, the Exchange represents that other routable orders not subject to the ''Flash'' auction process must still be processed by the System prior to routing, and during this processing time the market may have moved.[20] Under the proposed rule change, if the NBB or NBO price has not improved at the time an order is routed, the ATR that was applied to the order upon entry into the System would apply.[21]

The Exchange states that it intends to implement the ATR functionality described in the proposed rule change no later than October 31, 2018.[22]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[24] 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

[3] *See* Securities Exchange Act Release No. 82847 (March 9, 2018), 83 FR 11259 (''Notice'').

[4] *See* Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 23, 2018 (''Amendment No. 1''). Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid (''NBB'') or the National Best Offer (''NBO'') price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 was also submitted as a comment to the proposed rule change. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-gemx-2018-09/gemx201809-3490578-162256.pdf.*

[5] *See* Securities Exchange Act Release No. 83118 (April 26, 2018), 83 FR 19369 (May 2, 2018).

[6] For a more detailed description of the proposal, *see* Notice, *supra* note 3; Amendment No. 1, *supra* note 4.

[7] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Exchange Rule 100(a)(55).

[8] *See* Amendment No. 1, *supra* note 4.

[9] *See* Exchange Rule 714(b)(1).

[10] *See* Notice, *supra* note 3, at 11259. For purposes of determining the value that will be added or subtracted from the reference price, there are three categories of options for the ATR: (1) Penny Pilot Options trading in one cent increments for options trading at less than $3.00 and increments of five cents for options trading at $3.00 or more, (2) Penny Pilot Options trading in one-cent increments for all prices, and (3) Non-Penny Pilot Options. *See id.*

[11] *See* Exchange Rule 714(b)(1)(i).

[12] *See* Exchange Rule 714(b)(1)(ii). The ATR is not available for All-or-None Orders. *See* Notice, *supra* note 3, at 11259, n.3.

[13] *See* Notice, *supra* note 3, at 11259.

[14] *See* Amendment No. 1, *supra* note 4.

[15] *See* Notice, *supra* note 3, at 11259.

[16] *See* Amendment No. 1, *supra* note 4.

[17] This could occur: (1) If an order is routed to an away market pursuant to Supplementary Material .02 to Rule 1901 (the ''Flash'' auction) without first trading against any Exchange interest in the ''Flash'' auction; (2) if an order is a ''Sweep Order'' as defined in Rule 715(s) and processed pursuant to Supplementary Material .05 to Rule 1901 instead of the ''Flash'' auction; or (3) if a Non-Customer Order opts out of the ''Flash'' auction and is processed pursuant to Supplementary Material .04 to Rule 1901. *See* Amendment No. 1, *supra* note 4.

Supplementary Material .02 to Rule 1901 provides that orders to be routed to away markets may be eligible for a ''Flash'' auction wherein Exchange members are allowed the opportunity to enter responses to trade with the order prior to routing. *See* Notice, *supra* note 3, at 11259.

[18] *See* Amendment No. 1, *supra* note 4; proposed Exchange Rule 714(b)(1)(ii). In the Notice, the Exchange provides examples of how the ATR will be applied to orders routed to away markets. *See* Notice, *supra* note 3, at 11259–60.

[19] *See* Amendment No. 1, *supra* note 4.

[20] *See* Amendment No. 1, *supra* note 4.

[21] The Exchange states that the ATR is not again recalculated for orders after routing, so orders that are routed but not executed in full by an away market, and subsequently return to trade on the Exchange, would not receive a new ATR. *See* Amendment No. 1, *supra* note 4.

[22] *See* Notice, *supra* note 3, at 11260. The Exchange further states that it will announce the implementation date of this functionality in an Options Trader Alert prior to the launch date. *See id.*

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

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 Commission believes that the ATR is reasonably designed to prevent executions of orders and quotes at prices that are significantly worse than the NBBO at the time of an order's submission and may reduce the potential negative impacts of unanticipated volatility in individual options.[25] The Commission notes that the proposed rule change extends the application of the ATR to orders that route away immediately upon entry, thus offering these orders the same protections that the ATR provides to orders that first trade on the Exchange before being routed. The Commission also believes that recalculating the ATR for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, should help provide such orders with a price protection that better reflects the NBB or NBO. The Commission further believes that the proposed rule change will provide transparency and enhance investors' understanding of the operation of the ATR. The Commission notes that the Exchange will continue to use the NBB or NBO as the reference price for the ATR. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Exchange 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–GEMX–2018–09 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–GEMX–2018–09. 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–GEMX–2018–09 and should be submitted on or before June 13, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 adds detail to the proposal and the proposed rule text regarding the operation of the ATR. Amendment No. 1 revises the proposed rule text to specify that for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR will be calculated based on the reference price at that time. Amendment No. 1 also sets forth additional justification for the proposed rule change. The Commission believes that these revisions provide greater clarity with respect to the current and proposed application of the ATR for routed away orders. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[26] to approve the proposed rule change, as modified by Amendment No. 1 on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[27] that the proposed rule change (SR–GEMX–2018–09), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10979 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83275; File No. SR–IEX–2018–10]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.410(a) To Update the Market Data Source That the Exchange Will Use To Determine the Top of Book Quotation for NYSE National in Anticipation of Its Planned Re-Launch

May 17, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 10, 2018, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[25] *See* Securities Exchange Act Release No. 80011 (February 10, 2017), 82 FR 10927, 10929–30 (February 16, 2017) (SR–ISEGemini–2016–17) (Order approving, among other things, proposal to establish ATR).

[26] 15 U.S.C. 78s(b)(2).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend the table in Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book[6] quotation for NYSE National, Inc. (''XCIS'') in anticipation of its planned re-launch. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[7] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[8] The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the table in Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book quotation for XCIS in anticipation of its planned re-launch.[9] As specified in Rule 11.410(a)(2), the Exchange uses data from each away trading center that produces a Protected Quotation[10] to determine its Top of Book quotation, as well as the NBBO[11] for certain reporting, regulatory and compliance systems within IEX.

Specifically, the Exchange proposes to amend and update the table specifying the primary and secondary sources for NYSE National (''XCIS'') in anticipation of the planned re-launch of XCIS on May 21, 2018.[12] As proposed, the Exchange will use securities information processor (''SIP'') data, *i.e.,* CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UTDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges national market system plan, to determine XCIS Top of Book quotes. No secondary source is proposed to be specified as SIP data will be used exclusively. While the Exchange uses proprietary market data feeds to determine the Protected Quotations of other away markets, as specified in Rule 11.410, it has determined to utilize the SIP quote feeds for XCIS for several reasons. First, XCIS quotations will not be included in the market data feeds that IEX currently subscribes to and consumes for NYSE Group exchanges.[13] Although XCIS is not proposing charges for its proprietary market data, the Exchange notes that making the necessary technical changes to consume XCIS proprietary market data in time for XCIS' planned May 21, 2018 re-launch would divert technical resources from other higher priority initiatives. Second, the Exchange believes that XCIS will likely have relatively low market share,[14] and accordingly does not believe that subscribing to an additional proprietary market data feed at this time is necessary in order to determine XCIS Top of Book quotes and enable the Exchange to comply with applicable requirements of Regulation NMS with respect to its Top of Book quotes. The Exchange also notes that other exchanges also use SIP market data feeds to determine Top of Book quotes for some away markets, including XCIS, pursuant to effective rule filings.[15]

The Exchange is also proposing a conforming change to Rule 11.410(a)(2) to reflect that, as proposed, the Exchange will not use proprietary market data feeds as the primary source from which it will determine Top of Book quotations for XCIS.

The Exchange is not proposing any other changes to Rule 11.410 with respect to its use of market data feeds and calculations of necessary price reference points. The proposed change merely specifies the market data feeds that the Exchange will use to determine XCIS Top of Book quotes, and does not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[16] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides transparency with respect to the sources of market data that it will use to determine XCIS Top of Book quotes. For the reasons discussed in the Purpose section, the Exchange believes that use of SIP market data will enable it to determine XCIS Top of Book quotes and comply with applicable requirements of Regulation NMS. In addition, and as further noted in the Purpose section, other exchanges use SIP market data to determine Top of Book quotes for some away markets, including XCIS, so the proposed change does not raise any new or novel issues not already considered by the Commission.

The Exchange also believes it is consistent with the Act to make a conforming change to Rule 11.410(a)(2) so that provision is consistent with the table in Rule 11.410(a).

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed update does not impact competition in any respect since its purpose is to enhance transparency and with respect

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] *See* IEX Rule 11.410(a)(1).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] *See* NYSE Group Trader Update published on March 8, 2018 available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse/National_BC.pdf.*

[10] *See* IEX Rule 1.160(bb).

[11] *See* IEX Rule 1.160(u).

[12] *See supra* note 9.

[13] *See supra* note 12. NYSE Group is the immediate parent company of XCIS and its national securities exchange affiliates. *See* Securities Exchange Act Release No. 82635 (February 6, 2018), 83 FR 6057 (February 12, 2018) (File No. SR–NYSENAT–2018–03).

[14] XCIS had overall market share of 0.02% for the week of January 30, 2017, immediately prior to ceasing operations.

[15] *See, e.g.,* Nasdaq Stock Market Rule 4759(a).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

to the operation of the Exchange and its use of market data feeds.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [20] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing, thus allowing IEX's proposed rule change to reflect in its rules, prior to the planned re-launch of XCIS, the source of market data that the Exchange will utilize for determining XCIS Top of Book quotes. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2018–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2018–10. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* 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–IEX–2018–10 and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10976 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83274; File No. SR–MRX–2018–15]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .03 to Rule 804 To Enhance Anti-Internalization Functionality

May 17, 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 2, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The 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 Supplementary Material .03 to Rule 804 to enhance anti-internalization functionality.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enhance the anti-internalization (''AIQ'') functionality provided to Market Makers on the Exchange by giving members the flexibility to choose to have this protection apply at the market participant identifier level (*i.e.,* existing functionality),[3] at the Exchange account level, or at the member firm level. The Exchange believes that this enhancement will provide helpful flexibility for Market Makers that wish to prevent trading against all quotes and orders entered by their firm, or Exchange account, instead of just quotes and orders that are entered under the same market participant identifier. Similar functionality was also recently introduced on the Exchange's affiliated exchanges, Nasdaq PHLX LLC (''Phlx'') and NOM.[4] The Exchange believes that introducing this functionality now on MRX will ensure that MRX Market Makers on will benefit from similar flexibility in applying this protection.

Currently, the Exchange provides mandatory AIQ functionality whereby quotes and orders entered by Market Makers using the same market participant identifier will not be executed against quotes and orders entered on the opposite side of the market by the same Market Maker using the same market participant identifier.[5] When a quote or order entered by a Market Maker would trade with other quotes or orders from the same market participant identifier, the trading system cancels the resting quote or order back to the entering party prior to execution.[6] This functionality shall not apply in any auction or with respect to complex order transactions. AIQ assists Market Makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable buy and sell trading interest from the same firm when performing the same market making function.

Today, this protection prevents Market Makers from trading against their own quotes and orders at the market participant identifier level. The proposed enhancement to this functionality would allow members to choose to have this protection applied at the market participant identifier level as implemented today, at the Exchange account level, or at the member firm level. If members choose to have this protection applied at the Exchange account level, AIQ would prohibit quotes and orders from different market participant identifiers associated with the same Exchange account from trading against one another. Similarly, if the members choose to have this protection applied at the member firm level, AIQ would prohibit quotes and orders from different market participant identifiers within the member firm from trading against one another. Members that do not select to have this protection applied at the Exchange account level or member firm level will have their AIQ protection defaulted to the market participant identifier level protection applied today. The Exchange believes that the proposed AIQ enhancement will provide members with more tailored self-trade functionality that allows them to manage their trading as appropriate based on the members' business needs. While the Exchange believes that some firms will want to restrict AIQ to trading against interest from the same market participant identifier—*i.e.,* as implemented today—the Exchange believes that other firms will find it helpful to be able to configure AIQ to apply at the Exchange account level or at the member firm level so that they are protected regardless of which market participant identifier the order or quote originated from. Similar flexibility is offered on the Exchange's affiliates, Phlx and NOM, and also on the CBOE BZX Exchange, Inc. (''BZX''), which provides members the ability to apply Match Trade Prevention (''MTP'') modifiers—*i.e.,* BZX's version of self-trade protection—based on market participant, Exchange Member, trading group, or Exchange Sponsored Participant identifiers.[7]

The examples below illustrate how AIQ would operate based on the market participant identifier level protection, the Exchange account level, or for members that choose to apply AIQ at the member firm level:

Example 1

1. Member ABC (market participant identifier 123A & 555B) with AIQ configured at the market participant identifier level.

2. 123A Quote: $1.00 (5) × $1.10 (20).

3. 555B Buy Order entered for 10 contracts at $1.10.

4. 555B Buy Order executes 10 contracts against 123A Quote. 123A and 555B are not prevented by the system from trading against one another because Member ABC has configured AIQ to apply at the market participant identifier level. This is the same as existing functionality.

Example 2

1. Member ABC (Account 999 with market participant identifiers 123A and 555B, and Account 888 with market participant identifier 789A) with AIQ configured at the Exchange account level.

2. 123A Quote: $1.00 (5) × $1.10 (20).

3. 789A Quote: $1.05(10) × $1.10 (20).

4. 555B Buy Order entered for 30 contracts at $1.10.

5. 555B Buy Order executes against 789A Quote but 555B Buy Order does not execute against 123A Quote. AIQ purges the 123A Quote and the remaining contracts of the 555B Buy Order rests on the book at $1.10. 123A and 555B are not permitted trade against one another because Member ABC has configured AIQ to apply at the Exchange account level. This is new functionality as the member has opted to have AIQ operate at the Exchange account level.

Example 3

1. Same as Example 2 above but Member ABC has AIQ configured at the member level.

2. AIQ purges the 123A Quote and the 789A Quote and the 555B Buy Order rests on the book at $1.10. This is new functionality as the member has opted to have AIQ operate at the member level.

[3] Currently, the rule uses the term ''member identifier'' for this concept. The Exchange proposes to rename ''member identifier'' to ''market participant identifier'' to be consistent with terminology used on the Nasdaq Options Market (''NOM'') and to avoid member confusion that could result in using the similar terms ''member identifier'' and ''member firm identifier'' in this rule.

[4] *See* Phlx Rule 1080(p)(2); NOM Chapter VI, Sec. 10. *See also* Securities Exchange Act Release Nos. 82012 (November 3, 3017), 82 FR 52082 (November 9, 2017) (SR–Phlx–2017–93); 81171 (July 19, 2017), 82 FR 34557 (July 25, 2017) (SR–Nasdaq–2017–069).

[5] *See* Supplementary Material .03 to Rule 804. This functionality shall not apply in any auction.

[6] *Id.* A quote or order entered by a Market Maker only triggers AIQ when it would trade with other quotes or orders from the same Market Maker. Thus, an incoming quote or order entered by a Market Maker may interact with other interest with priority on the book prior to triggering AIQ. After AIQ is triggered, the incoming quote or order may continue to trade with resting interest from other participants.

[7] *See* BZX Rule 21.1(g).

Implementation

The Exchange proposes to launch the AIQ functionality described in this proposed rule change in either Q2 or Q4 2018. The Exchange will announce the implementation date of this functionality in an Options Trader Alert issued to members prior to the launch date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[9] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 consistent with the protection of investors and the public interest as it is designed to provide Market Makers with additional flexibility with respect to how to implement self-trade protections provided by AIQ. Currently, all Market Makers are provided functionality that prevents quotes and orders from one market participant identifier from trading with quotes and orders from the same market participant identifier. This allows Market Makers to better manage their order flow and prevent undesirable executions where the Market Maker, using the same market participant identifier, would be on both sides of the trade. While this functionality is helpful to our members, some members would prefer not to trade with quotes and orders entered by different market participant identifiers within the same Exchange account or member. Thus, the Exchange is proposing to provide members with flexibility with respect to how AIQ is implemented. While members that like the current functionality can continue to use it, members who would prefer to prevent self-trades across different market participant identifiers within the same Exchange account or at the member level will now be provided with functionality that lets them do this. Similar flexibility is offered on Phlx and NOM, as well as BZX.[10] The Exchange believes that flexibility to apply AIQ at the Exchange account or member firm level would be useful for the Exchange's members too. The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade and will remove impediments to and perfect the mechanisms of a free and open market as it will further enhance self-trade protections provided to Market Makers similar to those protections provided on other markets. This functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to enhance AIQ functionality provided to Exchange Market Makers, and will benefit members that wish to protect their quotes and orders against trading with other quotes and orders within the same Exchange account or member, rather than the more limited market participant identifier standard applied today. The new functionality, which provides similar flexibility to that offered on Phlx, NOM, and BZX, is also completely voluntary, and members that wish to use the current functionality can also continue to do so. The Exchange does not believe that providing more flexibility to members will have any significant impact on competition. In fact, the Exchange believes that the proposed rule change is evidence of the competitive environment in the options industry where exchanges must continually improve their offerings to maintain competitive standing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–MRX–2018–15 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* supra notes 4 and 7.

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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–MRX–2018–15 and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10975 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83276; File No. SR–FINRA–2018–003]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of a Proposed Rule Change Relating to Simplified Arbitration

May 17, 2018.

I. Introduction

On January 29, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 19b–4 thereunder, proposed amendments to FINRA Rules 12600 and 12800 of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and 13600 and 13800 of the Code of Arbitration Procedure for Industry Disputes (''Industry Code,'' and together with the Customer Code, the ''Codes''), to amend the hearing provisions to provide an additional hearing option for parties in arbitration with claims of $50,000 or less, excluding interest and expenses.

The proposed rule change was published for comment in the **Federal Register** on February 16, 2018.[1] The public comment period closed on March 9, 2018. On March 28, 2018, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to May 17, 2018. The Commission received 12 comment letters in response to the Notice.[2] On May 7, 2018, FINRA responded to the comment letters received in response to the Notice.[3]

This order approves the proposal.

II. Description of the Proposed Rule Change

The Codes provide two methods for administering arbitration cases with claims involving $50,000 or less, excluding interest and expenses. The default method is a decision by a single arbitrator based on the parties' pleadings and other materials submitted by the parties. The alternative method involves a full hearing with a single arbitrator. Under the Customer Code, a customer may request a hearing (regardless of whether the customer is a claimant or respondent),[4] and under the Industry Code, the claimant may request a hearing.[5] If a hearing is requested, it is generally held in-person, and there are no limits on the number of hearing sessions that can take place.

FINRA believes that forum users with claims involving $50,000 or less would benefit by having an additional, intermediate form of adjudication that would provide them with an opportunity to argue their cases before an arbitrator in a shorter, limited telephonic hearing format. Therefore, FINRA is proposing to amend the Codes to include a Special Proceeding for Simplified Arbitration (''Special Proceeding''). The Special Proceeding would be limited to two hearing sessions, exclusive of prehearing conferences,[6] with parties being given time limits for their presentations. As discussed above, parties with claims involving $50,000 or less are currently limited to a decision based on the pleadings and other materials submitted by the parties, or a full hearing that typically takes place in-person and is not limited in duration. While a party might wish for an opportunity to present his or her case to an arbitrator, the travel and expenses associated with a full hearing might prevent that party from requesting one. In addition, the prospect of cross-examination by an opposing party might act as a deterrent for parties seeking to avoid a direct confrontation with their opponents. FINRA noted that these concerns particularly impact *pro se,* senior, and seriously ill parties.

The suggestion to propose an intermediate form of adjudication originated from the FINRA Dispute Resolution Task Force (''Task Force'').[7] The Task Force observed that customers whose cases were decided on the papers were the least satisfied of any group of forum users. They also noted that, from the arbitrator's perspective, it is more

[1] *See* Exchange Act Release No. 34–82693 (February 12, 2018), 83 FR 7086 (February 16, 2018) (''Notice'').

[2] *See* Letters from Steven B. Caruso, Maddox Hargett & Caruso, P.C., dated February 13, 2018 (''Caruso Letter''); Andrew Stoltmann, President, Public Investors Arbitration Bar Association, dated March 6, 2018 (''PIABA Letter''); Eric Duhon and Paige Foley, Student Attorneys, Investor Protection Clinic, William S. Boyd School of Law, University of Nevada, Las Vegas, dated March 6, 2018 (''UNLV Letter''); Katherine Kokotos, Amrita Maitlall, and Sumaya Restagno, Legal Interns, and Christine Lazaro, Director of the Securities Arbitration Clinic and Professor of Clinical Legal Education, St. John's University School of Law, dated March 6, 2018 (''SJU Letter''); Daniel P. Guernsey, Student Intern and Teresa J. Verges, Director, University of Miami School of Law Investor Rights Clinic, dated March 6, 2018 (''MIRC Letter''); Jill I. Gross, Professor of Law, Elisabeth Haub School of Law, Pace University, dated march 8, 2018 (''Gross Letter''); William A. Jacobson, Clinical Professor of Law and Director, Cornell Securities Law Clinic, and Sam Wildman, Cornell University Law School, dated March 8, 2018 (''Cornell Letter''); Kevin M. Carroll, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated March 8, 2018 (''SIFMA Letter''); Barbara Black, Professor of Law, University of Cincinnati College of Law (Retired), dated March 8, 2018 (''Black Letter''); John Ripoli, Simon Halper, and Mark Sarno, Student Interns, and Elissa Germaine, Director, Investor Rights Clinic at the Elisabeth Haub School of Law, Pace University, dated March 8, 2018 (''PIRC Letter''); Abigail Howd, Eric Peters, and Dowdy White, Student Interns, and Nicole G. Iannarone, Assistant Clinical Professor, Investor Advocacy Clinic, Georgia State University College of Law, dated March 9, 2018 (''GSU Letter''); and Mark D. Norych, President and General Counsel, Arbitration Resolution Services, Inc., dated March 9, 2018 (''ARS Letter'').

[3] *See* Letter from Margo A. Hassan, Associate Chief Counsel, FINRA Office of Dispute Resolution, to the Commission, dated May 7, 2018 (''FINRA Letter''). The FINRA Letter is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA, at the Commission's website at *https://www.sec.gov/comments/sr-finra-2018-003/finra2018003-3590730-162342.pdf,* and at the Commission's Public Reference Room.

[4] *See* FINRA Rule 12800(c).

[5] *See* FINRA Rule 13800(c).

[6] *See* FINRA Rules 12100 and 13100 (Definitions). Under these rules, ''hearing'' means the hearing on the merits of an arbitration and a ''hearing session'' is defined as any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference.

[7] The Task Force was formed in 2014 to suggest strategies to enhance the transparency, impartiality, and efficiency of FINRA's securities dispute resolution forum. On December 16, 2015, the Task Force issued its Final Report and Recommendations, available at *http://www.finra.org/sites/default/files/Final-DR-task-force-report.pdf.*

difficult to assess crucial issues of credibility when deciding cases on the papers. The Task Force recommended that the goal of the intermediate process should be to give the claimant personal contact with the arbitrator deciding the case and to give each party the opportunity to argue its case, to ask questions, and to respond to contentions from the other side. The Task Force also recommended that the intermediate process should allow the arbitrator to probe contentions in the papers in an interactive format.[8]

FINRA considered the Task Force's recommendations and questions in developing the format for an intermediate form of adjudication.[9] Accordingly, FINRA is proposing to amend Rules 12800(c) and 13800(c) to provide that parties that opt for a hearing must select between two hearing options. Option One would be the current hearing option that provides for the regular provisions of the Codes relating to prehearings and hearings, including all fee provisions. If the parties choose Option One, they would continue to have in-person hearings without time limits, and they would continue to be permitted to question opposing parties' witnesses.

Option Two would be the new Special Proceeding subject to the regular provisions of the Code relating to prehearings and hearings, including all fee provisions, with several limiting conditions. The conditions are intended to ensure that the parties have an opportunity to present their case to an arbitrator in a convenient and cost effective manner without being subject to cross-examination by an opposing party.

Specifically:

- A Special Proceeding would be held by telephone unless the parties agree to another method of appearance;[10]
- the claimants, collectively, would be limited to two hours to present their case and ½ hour for any rebuttal and closing statement, exclusive of questions from the arbitrator and responses to such questions;
- the respondents, collectively, would be limited to two hours to present their case and ½ hour for any rebuttal and closing statement, exclusive of questions from the arbitrator and responses to such questions;
- notwithstanding the abovementioned conditions, the arbitrator would have the discretion to cede his or her allotted time to the parties;
- in no event could a Special Proceeding exceed two hearing sessions, exclusive of prehearing conferences, to be completed in one day;
- the parties would not be permitted to question the opposing parties' witnesses;
- the Customer Code would provide that a customer could not call an opposing party, a current or former associated person of a member party, or a current or former employee of a member party as a witness, and members and associated persons could not call a customer of a member party as a witness; and
- the Industry Code would provide that members and associated persons could not call an opposing party as a witness.

Except for the two hearing session time limit for a Special Proceeding, FINRA would not impose any restrictions on the arbitrator's ability to ask the parties questions and has incorporated a substantial amount of time for arbitrator questions. Specifically, since FINRA would limit the parties' combined presentations to five hours, the arbitrator would have up to three hours to ask questions. In addition, under the proposed rule change FINRA would not prohibit the arbitrator from allowing parties additional time for their presentations or witness testimonies, so long as the hearing on the merits is completed within the two hearing session limit.[11]

FINRA is further proposing to amend Rule 12800(a) to add clarity to the rule by explaining the customer's options earlier in the rule text. FINRA is proposing to amend the sentence in Rule 12800(c) that states that ''[I]f no hearing is held, no initial prehearing conference or other prehearing conference will be held, and the arbitrator will render an award based on the pleadings and other materials submitted by the parties.'' FINRA would replace the first ''held'' in the sentence with the term ''requested'' to better reflect that a hearing would only occur if the customer requested it. FINRA believes the amendment would add clarity to the rule text. FINRA is further proposing to amend Rule 12600(a) that discusses exceptions to when required hearings will be held to specify Rule 12800(c) as one of the exceptions.

To add clarity on how arbitrators are paid in cases where the customer requests a hearing, FINRA is proposing to amend Rule 12800(f) to clarify that the regular provisions of the Code relating to arbitrator honoraria would apply in such cases. Since the Special Proceeding would be a new form of adjudication at the forum, FINRA intends to provide substantial training to arbitrators including, but not limited to, updating FINRA's written training materials for arbitrators, posting a Neutral Workshop video on the FINRA website for arbitrators to view on-demand, and including discussions about the Special Proceeding in FINRA's publication for arbitrators and mediators, *The Neutral Corner.* FINRA would instruct arbitrators that the arbitrator's role in a Special Proceeding might be different than it is in a full hearing because parties would not be permitted to question opposing parties' witnesses. FINRA would emphasize that in a Special Proceeding the arbitrator might need to ask more questions than he or she would ask in a regular hearing to gain clarity on issues and to assess witness credibility.

III. Comment Summary and FINRA's Response

As noted above, the Commission received 12 comment letters on the proposed rule change and a response letter from FINRA. As discussed in more detail below, 11 commenters supported the proposed rule change, although seven commenters supported it with suggested modifications.[12] Commenters

[8] *Id.* at 29.

[9] The Task Force provided the following questions for FINRA to consider in developing an intermediate form of adjudication: (1) Whether parties appearing should be able to amplify positions taken in their papers and to answer questions posed by the arbitrator; (2) whether fact witnesses should be permitted to tell their stories to the arbitrator; (3) whether there should be a clear boundary between the informal, expedited adjudication and a full-blown hearing; (4) whether witnesses should be subject to cross-examination by adverse counsel; (5) whether parties should be able to compel the attendance of particular witnesses, and if so, should there be a limit; (6) what arrangements should be made for parties who are not appearing in person; and (7) whether arbitrators should use the session as an opportunity to press the parties to settle.

[10] The Task Force recommended allowing parties with claims involving $50,000 or less to be able to appear in whatever manner they prefer: In person, by phone or by videoconference. FINRA determined that it is in the best interest of the parties to hold hearings by telephone because this method is the most expeditious and inexpensive format for hearings. As stated above, FINRA is proposing that parties can agree to other methods of appearance, including appearing in person or by videoconference.

[11] The Task Force recommended a shorter time limit on each case to enable an arbitrator to hear several cases in a hearing day and to limit the time commitment of the parties. FINRA was concerned that a period shorter than the proposed two hearing session time limit would restrict the parties' presentations and their ability to answer questions posed by the arbitrator.

[12] *See* ARS Letter, PIABA Letter, SJU Letter, MIRC Letter, Black Letter, PIRC Letter, and GSU Letter. ARS proposed the creation of a pilot whereby parties could opt in to voluntary expedited online arbitration at its forum. This comment is outside the scope of the proposed rule change.

who supported the proposed rule change stated, among other things, that it would: (1) Facilitate fairness and efficiency in the arbitration forum; [13] (2) provide access to justice for *pro se* claimants; [14] (3) provide an additional option for investors; [15] (4) result in lower costs, increased representation rates of claimants, and greater participant satisfaction with the arbitration process; [16] (5) lead to more investor trust in the process; [17] and (6) improve both procedural and substantive justice.[18] One commenter did not expressly support or oppose the proposed rule change.[19] However, one commenter asserted objections to specific aspects of the proposed rule change and made recommendations for modifications.[20] As referenced above, several commenters suggested modifications to the proposed rule change.

Cross-Examination

One commenter stated that FINRA should permit cross-examination on fairness and due process grounds asserting, among other matters, that ''members and associated persons should have the right to explore, identify, examine, and highlight errors, omissions, and misstatements that bear upon the credibility, accuracy and completeness of a claimant's or witness's testimony.'' [21] Another commenter urged FINRA to allow limited cross-examination of one or two key witnesses stating that ''cross examination is often one of the most effective means of eliciting evidence during a hearing.'' [22] Several commenters supported FINRA's prohibition on cross-examination in a Special Proceeding.[23] Two commenters asserted that trained and experienced FINRA arbitrators have the knowledge and judgment to ask questions and obtain much of the same information that would have been revealed through cross-examination.[24] Moreover, one of those two commenters stated that ''because formal rules of evidence do not apply in arbitration, cross-examination rarely yields the 'gotcha' moment we might see dramatized on television.'' [25]

FINRA noted in the FINRA Letter that the absence of cross-examination is one of the main features that distinguishes a Special Proceeding from the full hearing option.[26] FINRA believes that the ability to present a case without cross-examination would benefit parties whose testimony could be intimidated by a direct confrontation.[27] FINRA also believes that the broader role of arbitrators in a Special Proceeding in asking questions of the parties would serve a similar function to cross-examination, such as gaining clarity on issues and assessing witness credibility, but within a potentially less intimidating environment.[28] Moreover, FINRA is not eliminating the cross-examination feature in the full hearing option. A customer (under the Customer Code), or a claimant (under the Industry Code), would continue to have the option of electing a full hearing if the party believes that cross-examination would be beneficial in a particular case.

The Right To Request a Special Proceeding Under the Codes

One commenter asserted that FINRA should allow firms and their associated persons to request a Special Proceeding.[29] The FINRA Letter notes that, currently, no hearing will be held in simplified cases unless the customer (under the Customer Code), or a claimant (under the Industry Code), requests a hearing.[30] FINRA stated that, in developing the proposal, it considered whether to expand the right of firms and associated persons under the Customer Code, and respondents under the Industry Code, to request a Special Proceeding.[31] FINRA decided not to change the rights of the parties under the Codes relating to the ability to elect a hearing option.[32] FINRA believes it is in the best interest of investors to continue to allow them to determine how they want to proceed in arbitration. FINRA further believes that giving the firm, generally the party with the most resources, the ability to determine the arbitration method, could create an inappropriate barrier for some investors, particularly if the firm chooses the most expensive arbitration method.[33]

Additional Mechanisms for Firms and Associated Persons

One commenter asserted that in a Special Proceeding, FINRA should allow firms and their associated persons to file a motion to dismiss for failure to state a claim, and if granted, the case should be decided on the papers.[34] That same commenter stated that because FINRA does not allow motions to dismiss for failure to state a claim in instances where a statement of claim lacks specificity or is drafted poorly, respondents cannot adequately prepare to defend themselves at a hearing.[35] That commenter also stated that in a Special Proceeding, the claimant should be precluded from raising new issues, claims or evidence not previously raised or referenced in the statement of claim.[36] FINRA believes that motions to dismiss should be narrowly confined to the grounds outlined in Rules 12504 and 13504,[37] and notes that parties can

[13] *See, e.g.* Caruso Letter, stating that ''the proposed amendments . . . would be a fair, equitable and reasonable approach that would facilitate the fairness and efficiency of the investor participants experience in the FINRA arbitration forum.''

[14] *See, e.g.* Gross Letter, stating that ''This simpler, lower cost and faster process provides access to justice especially for *pro se* claimants, as well as the elderly and disabled.''

[15] *See, e.g.* PIABA Letter, stating that ''it is important to have additional options related to simplified arbitration.''

[16] *See, e.g.* UNLV Letter, stating that ''Special Proceedings will result in lower costs, increased representation rates of claimants, and greater participant satisfaction with the arbitration process.'' The UNLV Letter also states that ''[a]t present, the private bar may provide less representation in [cases with less than $50,000 in dispute] because of the time required to prepare adequate pleadings or conduct an in-person hearing. An attorney may incur significant costs preparing for and traveling to an in-person arbitration, including the opportunity costs associated with foregoing work on other matters. The proposed Special Proceedings would substantially reduce or even eliminate many of these costs.''

[17] *See* MIRC Letter, stating that ''simplifying the hearing process and allowing investors to tell their story gives investors a sense of participation that they do not get when their case is decided on the papers . . . and therefore can lead to more investor trust in the process.''

[18] *See* Gross Letter, stating that ''[N]ot only does the proposal offer more choices to small claim claimants, but it also designs a small claims arbitration process that improves both procedural and substantive justice by providing a viable option for disputants to voice their grievances out loud to a third-party neutral.''

[19] *See* SIFMA Letter.

[20] *Id.*

[21] *See* SIFMA Letter at 2.

[22] *See* PIABA Letter at 2.

[23] *See* Gross Letter, UNLV Letter, SJU Letter, MIRC Letter, Black Letter, and PIRC Letter.

[24] *See* UNLV Letter at 2 and Gross Letter at 5.

[25] *See* Gross Letter at 5.

[26] *See* FINRA Letter at 3.

[27] *Id.*

[28] *See Id.*

[29] *See* SIFMA Letter at 2.

[30] *See* FINRA Letter at 3.

[31] *See Id.*

[32] *See Id.*

[33] *See Id.*

[34] *See* SIFMA Letter at 3.

[35] *See Id.*

[36] *See Id.*

[37] *See* FINRA Letter at 3. FINRA Rules 12504(a) and 13504(a) (Motions to Dismiss Prior to Conclusion of Case in Chief) provide that: ''The panel cannot act upon a motion to dismiss a party or claim under paragraph (a) of this rule, unless the panel determines that:

(A) The non-moving party previously released the claim(s) in dispute by a signed settlement agreement and/or written release;

(B) the moving party was not associated with the account(s), security(ies), or conduct at issue; or

(C) the non-moving party previously brought a claim regarding the same dispute against the same party that was fully and finally adjudicated on the merits and memorialized in an order, judgment, award, or decision.''

Continued

use the discovery process to explore the substance of their opponent's case.[38] Moreover, under the Codes, FINRA requires parties to provide all other parties with copies of all documents and other materials that they intend to use at the hearing that were not already produced as well as a copy of the parties' witness lists.[39] FINRA stated that it will monitor how the process is working to determine whether it should modify the program in any way.[40]

Clarify the Structure of the Special Proceedings

One commenter stated that FINRA should allow parties to give their closing statements after each party presents its case and the arbitrator concludes his or her questioning.[41] FINRA responded by noting that it provides arbitrators with hearing scripts to ensure that parties understand how the hearing will progress.[42] FINRA stated that it will provide a new hearing script specific to Special Proceedings which will state that absent circumstances indicating the need to hold the hearing in a different order, parties will be allowed to give their closing statements after each party presents its case and the arbitrator concludes his or her questioning.[43] In addition, FINRA will explain in the *Regulatory Notice* announcing approval of the proposed rule change, and in its arbitrator training materials, how the hearing will be conducted, including when parties are allowed to make closing statements.[44]

Another commenter objected to the time allotments in the rule proposal and recommended allotments made on a percentage or other basis.[45] According to FINRA, the conditions outlined in the proposed rule change are intended to ensure that the parties have an opportunity to present their case to an arbitrator in a convenient and cost-effective manner.[46] The time frames are specific and straightforward. FINRA believes that the time frames will help arbitrators and parties stay within the two session maximum for a Special Proceeding.[47] FINRA stated that it will clearly articulate the time frames in its hearing script.[48] Moreover, through correspondence and written materials, FINRA currently reminds arbitrators to stay on schedule during the arbitration hearing and avoid reducing the allotted time by starting late or ending early. In addition, FINRA stated that it would emphasize during the arbitrator training on Special Proceedings the importance of ensuring that arbitrators are mindful of the time frames outlined in the rule text.[49]

Other Methods of Appearance

One commenter stated that FINRA should encourage the use of videoconferencing because this technology affords the arbitrator a chance to better assess the credibility of witnesses.[50] Another commenter stated that FINRA should allow customers to choose a hearing by videoconference or in person.[51] FINRA responded by noting that the proposed rule change allows the parties to agree to other methods of appearance, including appearing in person or by videoconference. FINRA determined that it is in the best interest of the parties to make telephonic hearings the default hearing type because this method is the most widely available, expeditious and inexpensive format for hearings.[52]

Raise the Dollar Limits on Simplified Arbitration

One commenter stated that FINRA should raise the current dollar limit on simplified arbitration from $50,000 to $75,000 and increase the dollar limit of the rule proposal to $100,000.[53] FINRA stated that it will consider the feasibility of increasing the dollar limits on simplified arbitration after it has gained experience with Special Proceedings.[54]

Abridged Discovery Guide

Currently, the Customer Code provides that Document Production Lists do not apply to simplified cases. Two commenters recommended that FINRA provide a Discovery Guide (''Guide'') containing a shorter Document Production List for the exchange of documents in all simplified cases.[55] One of those two commenters further stated that FINRA should provide parties with some additional time for discovery exchange.[56] FINRA responded by noting that staff is currently studying potential enhancements to the discovery process in simplified arbitration generally that would not impede the expedited nature of simplified cases,[57] and that FINRA would consider whether any such enhancements would also apply to the Special Proceedings.[58]

Specially-Qualified Arbitrator Roster and Mandatory Training

Two commenters supported FINRA's intent to provide additional arbitrator training on Special Proceedings.[59] Two other commenters stated that FINRA should make arbitrator training on Special Proceedings a requirement.[60] One of those commenters recommended in-person training and also stated that FINRA should require specialized expertise for arbitrators presiding over Special Proceedings.[61] Two commenters

Under FINRA Rules 12504(c) and 13504(c) (Motions to Dismiss Based on Eligibility), the panel cannot act upon a motion to dismiss a claim under Rule 12206 (Time Limits), unless the panel determines that the claim is not eligible for arbitration where six years have elapsed from the occurrence or event giving rise to the claim.

[38] FINRA Rules 12800(d) and 13800(d) (Discovery and Additional Evidence) provide that: ''The parties may request documents and other information from each other. All requests for the production of documents and other information must be servced on all other parties, and filed with the Director, within 30 days from the date that the last answer is due. Any response or objection to a discovery request must be served on all other parties and filed with the Director within 10 days of the receipt of the requests. The parties receiving the request must produce the requested documents or information to all other parties by serving the requested documents or information by first-class mail, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director. The arbitrator will resolve any discovery disputes.

[39] FINRA Rules 12514(a) and 13514(a) (Documents and Other Materials) provide that: ''At least 20 days before the first scheduled hearing date, all parties must provide all other parties with copies of all documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced. The parties should not file the documents with the Director or the arbitrators before the hearing.''

FINRA Rules 12514(b) and 13514(b) (Witness Lists) provide that: ''At least 20 days before the first scheduled hearing date, all parties must provide each other party with the names and business affiliations of all witnesses they intend to present at the hearing. All parties must file their witness lists with the Director.''

[40] *See* FINRA Letter at 4.

[41] *See* GSU Letter at 2.

[42] *See* FINRA Letter at 4.

[43] *See* FINRA Letter at 4.

[44] *See Id.*

[45] *See* SIFMA Letter at 3.

[46] *See* FINRA Letter at 5.

[47] *See Id.*

[48] *See Id.*

[49] *See* FINRA Letter at 5.

[50] *See* MIRC Letter at 2.

[51] *See* PIRC Letter at 2.

[52] *See* FINRA Letter at 5.

[53] *See* SJU Letter at 2.

[54] *See* FINRA Letter at 5.

[55] *See* MIRC Letter at 3, GSU Letter at 3. The Guide supplements the discovery rules contained in the Customer Code. It includes an introduction which describes the discovery process generally, and explains how arbitrators should apply the Guide in arbitration proceedings. The introduction is followed by two Document Production Lists, one for firms and associated persons, and one for customers, which enumerate the documents that are presumptively discoverable in customer cases. As presumptively discoverable, parties do not have to expressly request the documents. FINRA expects the parties to exchange the documents without arbitrator or staff intervention. The Guide only applies to customer arbitration proceedings, not to intra-industry cases.

[56] *See* MIRC Letter at 3.

[57] *See* FINRA Letter at 5.

[58] *See* FINRA Letter at 6.

[59] *See* SJU Letter at 2, Cornell Letter at 2.

[60] *See* Black Letter at 1, GSU Letter at 1.

[61] *See* GSU Letter at 1.

recommended that FINRA establish a special roster of arbitrators to handle Special Proceedings.[62] One of those two commenters stated that the arbitrators should be chair-qualified and trained to work with *pro se* claimants.[63]

The FINRA Letter noted that all simplified cases are decided by a single chair-qualified public arbitrator who has fulfilled special eligibility requirements and completed chairperson training.[64] FINRA will provide arbitrator training in Special Proceedings through a Neutral Workshop video on the FINRA website for arbitrators to view on demand, and written training materials for arbitrators including, but not limited to, discussions about the Special Proceeding in FINRA's publication for arbitrators and mediators, *The Neutral Corner*.[65] In its training, FINRA would instruct arbitrators that the arbitrator's role in a Special Proceeding might be different than it is in a full hearing because parties would not be permitted to question opposing parties' witnesses.[66] FINRA would emphasize that in a Special Proceeding the arbitrator might need to ask more questions than he or she would ask in a regular hearing to gain clarity on issues and to assess witness credibility.[67] FINRA believes it needs time and experience with the new hearing option before it can consider additional qualifications and requirements for arbitrators.[68] While FINRA will strongly encourage arbitrators to avail themselves of training resources on Special Proceedings, FINRA is concerned about the potential negative impact that additional required training could have on the availability of arbitrators to serve on Special Proceedings.[69]

Change the Name of the Simplified Arbitration Process

One commenter recommended that FINRA change the name of the simplified arbitration process to ''small claims'' arbitration because their clients believe that their claims are not taken seriously due to the term ''simplified.'' [70] The FINRA Letter noted the comment, but asserted that using the term ''simplified'' appropriately captures the process and helps distinguish it from the full hearing process.[71]

IV. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to the comments, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[72] Specifically, the Commission finds that the rule change is consistent with Section 15A(b)(6) of the Exchange Act,[73] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As stated in the Notice, FINRA believes that forum users with claims involving $50,000 or less would benefit by having an additional, intermediate form of adjudication that would provide them with an opportunity to argue their cases before an arbitrator in a shorter, limited telephonic hearing format.[74] The Commission notes that FINRA's proposal originated from a recommendation of the Task Force, which was charged with suggesting strategies to enhance the transparency, impartiality, and efficiency of FINRA's securities dispute resolution forum for all participants.[75] The Task Force recommendations were informed by input from individuals representing a broad range of interests in FINRA's dispute resolution forum along with public comments.[76] The Commission further notes that eleven of the twelve public comments received for this proposal were supportive, in part, because the proposed rule would provide an additional and helpful option for investors seeking arbitration.[77]

Taking into consideration the comment letters and the FINRA Letter, the Commission believes that the proposal is consistent with the Exchange Act. The Commission believes that the proposal will help protect investors and the public interest by providing an additional, intermediate form of adjudication that would provide arbitration users with an opportunity to argue their cases before an arbitrator in a convenient, time-efficient, and cost-effective manner without being subject to cross-examination by an opposing party. The Commission further believes that FINRA's response, as discussed in more detail above, appropriately addressed commenters' concerns about arbitrator training and adequately explained its reasons for how this additional, intermediate form of adjudication would better serve some arbitration forum users by leading to more investor trust in the arbitration process, providing greater access to justice for *pro se* claimants, and facilitating fairness and efficiency. Further, the Commission notes FINRA's intent to monitor how the process is working to determine whether it should consider modifying the program in any way, including by considering the feasibility of increasing the dollar limits on simplified arbitration, and by studying potential enhancements to the discovery process in simplified arbitration generally.

The Commission believes that the approach proposed by FINRA is appropriate and designed to protect investors and the public interest, consistent with Section 15A(b)(6) of the Exchange Act. For these reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) [78] of the Exchange Act that the proposal (SR–FINRA–2018–003) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[79]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10977 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[62] *See* MIRC Letter at 3, Black Letter at 1.

[63] *See* MIRC Letter at 3.

[64] *See* FINRA Letter at 6.

[65] *See Id.*

[66] *See Id.*

[67] *See Id.*

[68] *See Id.*

[69] *See* FINRA Letter at 6.

[70] *See* GSU Letter at 1.

[71] *See* FINRA Letter at 6.

[72] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[73] 15 U.S.C. 78o–3(b)(6).

[74] Notice at 7087.

[75] *See Id.*

[76] *See* Final Report and Recommendations at 4, available at *http://www.finra.org/sites/default/files/Final-DR-task-force-report.pdf.*

[77] *See* ARS Letter, Black Letter, Cornell Letter, Caruso Letter, PIABA Letter, UNLV Letter, SJU Letter, MIRC Letter, Gross Letter, PIRC Letter, and GSU Letter.

[78] 15 U.S.C. 78s(b)(2).

[79] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83270; File No. SR–GEMX–2018–16]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .03 to Rule 804 To Enhance Anti-Internalization Functionality

May 17, 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 2, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The 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 Supplementary Material .03 to Rule 804 to enhance anti-internalization functionality.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enhance the anti-internalization (''AIQ'') functionality provided to Market Makers on the Exchange by giving members the flexibility to choose to have this protection apply at the market participant identifier level (*i.e.,* existing functionality),[3] at the Exchange account level, or at the member firm level. The Exchange believes that this enhancement will provide helpful flexibility for Market Makers that wish to prevent trading against all quotes and orders entered by their firm, or Exchange account, instead of just quotes and orders that are entered under the same market participant identifier. Similar functionality was also recently introduced on the Exchange's affiliated exchanges, Nasdaq PHLX LLC (''Phlx'') and NOM.[4] The Exchange believes that introducing this functionality now on GEMX will ensure that GEMX Market Makers on will benefit from similar flexibility in applying this protection.

Currently, the Exchange provides mandatory AIQ functionality whereby quotes and orders entered by Market Makers using the same market participant identifier will not be executed against quotes and orders entered on the opposite side of the market by the same Market Maker using the same market participant identifier.[5] When a quote or order entered by a Market Maker would trade with other quotes or orders from the same market participant identifier, the trading system cancels the resting quote or order back to the entering party prior to execution.[6] This functionality shall not apply in any auction or with respect to complex order transactions. AIQ assists Market Makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable buy and sell trading interest from the same firm when performing the same market making function.

Today, this protection prevents Market Makers from trading against their own quotes and orders at the market participant identifier level. The proposed enhancement to this functionality would allow members to choose to have this protection applied at the market participant identifier level as implemented today, at the Exchange account level, or at the member firm level. If members choose to have this protection applied at the Exchange account level, AIQ would prohibit quotes and orders from different market participant identifiers associated with the same Exchange account from trading against one another. Similarly, if the members choose to have this protection applied at the member firm level, AIQ would prohibit quotes and orders from different market participant identifiers within the member firm from trading against one another. Members that do not select to have this protection applied at the Exchange account level or member firm level will have their AIQ protection defaulted to the market participant identifier level protection applied today. The Exchange believes that the proposed AIQ enhancement will provide members with more tailored self-trade functionality that allows them to manage their trading as appropriate based on the members' business needs. While the Exchange believes that some firms will want to restrict AIQ to trading against interest from the same market participant identifier—*i.e.,* as implemented today—the Exchange believes that other firms will find it helpful to be able to configure AIQ to apply at the Exchange account level or at the member firm level so that they are protected regardless of which market participant identifier the order or quote originated from. Similar flexibility is offered on the Exchange's affiliates, Phlx and NOM, and also on the CBOE BZX Exchange, Inc. (''BZX''), which provides members the ability to apply Match Trade Prevention (''MTP'') modifiers—*i.e.,* BZX's version of self-trade protection—based on market participant, Exchange Member, trading group, or Exchange Sponsored Participant identifiers.[7]

The examples below illustrate how AIQ would operate based on the market

[3] Currently, the rule uses the term ''member identifier'' for this concept. The Exchange proposes to rename ''member identifier'' to ''market participant identifier'' to be consistent with terminology used on the Nasdaq Options Market (''NOM'') and to avoid member confusion that could result in using the similar terms ''member identifier'' and ''member firm identifier'' in this rule.

[4] *See* Phlx Rule 1080(p)(2); NOM Chapter VI, Sec. 10. *See also* Securities Exchange Act Release Nos. 82012 (November 3, 3017), 82 FR 52082 (November 9, 2017) (SR–Phlx–2017–93); 81171 (July 19, 2017), 82 FR 34557 (July 25, 2017) (SR–Nasdaq–2017–069).

[5] *See* Supplementary Material .03 to Rule 804. This functionality shall not apply in any auction.

[6] *Id.* A quote or order entered by a Market Maker only triggers AIQ when it would trade with other quotes or orders from the same Market Maker. Thus, an incoming quote or order entered by a Market Maker may interact with other interest with priority on the book prior to triggering AIQ. After AIQ is triggered, the incoming quote or order may continue to trade with resting interest from other participants.

[7] *See* BZX Rule 21.1(g).

participant identifier level protection, the Exchange account level, or for members that choose to apply AIQ at the member firm level:

Example 1

1. Member ABC (market participant identifier 123A & 555B) with AIQ configured at the market participant identifier level.
2. 123A Quote: $1.00 (5) × $1.10 (20).
3. 555B Buy Order entered for 10 contracts at $1.10.
4. 555B Buy Order executes 10 contracts against 123A Quote. 123A and 555B are not prevented by the system from trading against one another because Member ABC has configured AIQ to apply at the market participant identifier level. This is the same as existing functionality.

Example 2

1. Member ABC (Account 999 with market participant identifiers 123A and 555B, and Account 888 with market participant identifier 789A) with AIQ configured at the Exchange account level
2. 123A Quote: $1.00 (5) × $1.10 (20).
3. 789A Quote: $1.05(10) × $1.10 (20).
4. 555B Buy Order entered for 30 contracts at $1.10.
5. 555B Buy Order executes against 789A Quote but 555B Buy Order does not execute against 123A Quote. AIQ purges the 123A Quote and the remaining contracts of the 555B Buy Order rests on the book at $1.10. 123A and 555B are not permitted trade against one another because Member ABC has configured AIQ to apply at the Exchange account level. This is new functionality as the member has opted to have AIQ operate at the Exchange account level.

Example 3

1. Same as Example 2 above but Member ABC has AIQ configured at the member level.
2. AIQ purges the 123A Quote and the 789A Quote and the 555B Buy Order rests on the book at $1.10. This is new functionality as the member has opted to have AIQ operate at the member level.

Implementation

The Exchange proposes to launch the AIQ functionality described in this proposed rule change in either Q2 or Q4 2018. The Exchange will announce the implementation date of this functionality in an Options Trader Alert issued to members prior to the launch date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[9] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 consistent with the protection of investors and the public interest as it is designed to provide Market Makers with additional flexibility with respect to how to implement self-trade protections provided by AIQ. Currently, all Market Makers are provided functionality that prevents quotes and orders from one market participant identifier from trading with quotes and orders from the same market participant identifier. This allows Market Makers to better manage their order flow and prevent undesirable executions where the Market Maker, using the same market participant identifier, would be on both sides of the trade. While this functionality is helpful to our members, some members would prefer not to trade with quotes and orders entered by different market participant identifiers within the same Exchange account or member. Thus, the Exchange is proposing to provide members with flexibility with respect to how AIQ is implemented. While members that like the current functionality can continue to use it, members who would prefer to prevent self-trades across different market participant identifiers within the same Exchange account or at the member level will now be provided with functionality that lets them do this. Similar flexibility is offered on Phlx and NOM, as well as BZX.[10] The Exchange believes that flexibility to apply AIQ at the Exchange account or member firm level would be useful for the Exchange's members too. The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade and will remove impediments to and perfect the mechanisms of a free and open market as it will further enhance self-trade protections provided to Market Makers similar to those protections provided on other markets. This functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to enhance AIQ functionality provided to Exchange Market Makers, and will benefit members that wish to protect their quotes and orders against trading with other quotes and orders within the same Exchange account or member, rather than the more limited market participant identifier standard applied today. The new functionality, which provides similar flexibility to that offered on Phlx, NOM, and BZX, is also completely voluntary, and members that wish to use the current functionality can also continue to do so. The Exchange does not believe that providing more flexibility to members will have any significant impact on competition. In fact, the Exchange believes that the proposed rule change is evidence of the competitive environment in the options industry where exchanges must continually improve their offerings to maintain competitive standing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* supra notes 4 and 7.

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–GEMX–2018–16 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–GEMX–2018–16. 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–GEMX–2018–16 and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10971 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83278; File No. SR–ISE–2018–16]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce the ATR Protection for Orders That Are Routed to Away Markets

May 17, 2018.

I. Introduction

On February 23, 2018, Nasdaq ISE, LLC (''ISE'' or ''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 Exchange Rule 714 regarding the Acceptable Trade Range (''ATR'') functionality for orders that are routed to away markets. The proposed rule change was published for comment in the **Federal Register** on March 14, 2018.[3] On April 20, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety.[4] On April 26, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to June 22, 2018.[5] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1[6]

The ATR is a functionality designed to prevent the Exchange's System[7] from experiencing dramatic price swings by preventing the execution of orders beyond set thresholds.[8] Pursuant to Exchange Rule 714(b)(1), the System calculates an ATR to limit the range of prices at which an order or quote will be allowed to execute.[9] Upon receipt of a new order or quote, the ATR is calculated by taking the reference price, plus or minus a value to be determined by the Exchange, where the reference price is the NBB for sell orders/quotes and the NBO for buy orders/quotes.[10] Accordingly, the ATR is: The reference price − (x) for sell orders/quotes; and the reference price + (x) for buy orders.[11] If an order or quote reaches the outer limit of the ATR without being fully executed, then any unexecuted balance will be cancelled.[12]

---

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82846 (March 9, 2018), 83 FR 11254 (''Notice'').

[4] *See* Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 20, 2018 (''Amendment No. 1''). Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid (''NBB'') or the National Best Offer (''NBO'') price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 was also submitted as a comment to the proposed rule change. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-ise-2018-16/ise201816-3483594-162248.pdf.*

[5] *See* Securities Exchange Act Release No. 83119 (April 26, 2018), 83 FR 19367 (May 2, 2018).

[6] For a more detailed description of the proposal, *see* Notice, *supra* note 3; Amendment No. 1, *supra* note 4.

[7] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Exchange Rule 100(a)(53).

[8] *See* Amendment No. 1, *supra* note 4.

[9] *See* Exchange Rule 714(b)(1).

[10] *See* Notice, *supra* note 3, at 11254–55. For purposes of determining the value that will be added or subtracted from the reference price, there are three categories of options for the ATR: (1) Penny Pilot Options trading in one cent increments for options trading at less than $3.00 and increments of five cents for options trading at $3.00 or more, (2) Penny Pilot Options trading in one-cent increments for all prices, and (3) Non-Penny Pilot Options. *See id.*

[11] *See* Exchange Rule 714(b)(1)(i).

[12] *See* Exchange Rule 714(b)(1)(ii). The ATR is not available for All-or-None Orders or Complex Orders

The Exchange states that, currently, the System calculates a reference price for an incoming order or quote only when that order or quote rests or trades on the regular order book.[13] Accordingly, orders that route to away exchanges do not always receive the ATR. Orders that first trade on the Exchange prior to being routed away receive the ATR, but orders that are routed away upon entry (or otherwise do not rest or trade on the regular order book) are not currently subject to the ATR.[14]

The Exchange now proposes to amend the ATR to modify how it applies to orders that are routed by the Exchange. First, the Exchange proposes to apply the ATR to orders that are routed to away markets without first trading on the Exchange.[15] This means that, unlike today, the System will calculate an ATR for orders even if the order does not rest or trade on the regular order book prior to being routed.[16]

In addition, the Exchange proposes that, for orders routed to away markets pursuant to the Supplementary Material to Exchange Rule 1901,[17] if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR would be calculated based on the reference price at that time.[18] The Exchange notes that the NBB or NBO price for a security may change during the ''Flash'' auction process described in Supplementary Material .02 to Rule 1901, and the proposed rule change would provide additional protection if the reference price was improved at the time the order is routed.[19] Similarly, the Exchange represents that other routable orders not subject to the ''Flash'' auction process must still be processed by the System prior to routing, and during this processing time the market may have moved.[20] Under the proposed rule change, if the NBB or NBO price has not improved at the time an order is routed, the ATR that was applied to the order upon entry into the System would apply.[21]

The Exchange states that it intends to implement the ATR functionality described in the proposed rule change no later than October 31, 2018.[22]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[24] 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 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 Commission believes that the ATR is reasonably designed to prevent executions of orders and quotes at prices that are significantly worse than the NBBO at the time of an order's submission and may reduce the potential negative impacts of unanticipated volatility in individual options.[25] The Commission notes that the proposed rule change extends the application of the ATR to orders that route away immediately upon entry, thus offering these orders the same protections that the ATR provides to orders that first trade on the Exchange before being routed. The Commission also believes that recalculating the ATR for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, should help provide such orders with a price protection that better reflects the NBB or NBO. The Commission further believes that the proposed rule change will provide transparency and enhance investors' understanding of the operation of the ATR. The Commission notes that the Exchange will continue to use the NBB or NBO as the reference price for the ATR. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

III. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Exchange 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–ISE–2018–16 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–ISE–2018–16. 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

that leg into the regular order book. *See* Notice, *supra* note 3, at 11254, n.3.

[13] *See* Notice, *supra* note 3, at 11255.

[14] *See* Amendment No. 1, *supra* note 4.

[15] *See* Notice, *supra* note 3, at 11255.

[16] *See* Amendment No. 1, *supra* note 4.

[17] This could occur: (1) If an order is routed to an away market pursuant to Supplementary Material .02 to Rule 1901 (the ''Flash'' auction) without first trading against any Exchange interest in the ''Flash'' auction; (2) if an order is a ''Sweep Order'' as defined in Rule 715(s) and processed pursuant to Supplementary Material .05 to Rule 1901 instead of the ''Flash'' auction; or (3) if a Non-Customer Order opts out of the ''Flash'' auction and is processed pursuant to Supplementary Material .04 to Rule 1901. *See* Amendment No. 1, *supra* note 4.

Supplementary Material .02 to Rule 1901 provides that orders to be routed to away markets may be eligible for a ''Flash'' auction wherein Exchange members are allowed the opportunity to enter responses to trade with the order prior to routing. *See* Notice, *supra* note 3, at 11255.

[18] *See* Amendment No. 1, *supra* note 4; proposed Exchange Rule 714(b)(1)(ii). In the Notice, the Exchange provides examples of how the ATR will be applied to orders routed to away markets. *See* Notice, *supra* note 3, at 11255.

[19] *See* Amendment No. 1, *supra* note 4.

[20] *See* Amendment No. 1, *supra* note 4.

[21] The Exchange states that the ATR is not again recalculated for orders after routing, so orders that are routed but not executed in full by an away market, and subsequently return to trade on the Exchange, would not receive a new ATR. *See* Amendment No. 1, *supra* note 4.

[22] *See* Notice, *supra* note 3, at 11255. The Exchange further states that it will announce the implementation date of this functionality in an Options Trader Alert prior to the launch date. *See id.*

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191, 18193–94 (April 17, 2018) (SR–ISE–2017–03) (Order approving, among other things, proposal to establish ATR).

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–ISE–2018–16 and should be submitted on or before June 13, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 adds detail to the proposal and the proposed rule text regarding the operation of the ATR. Amendment No. 1 revises the proposed rule text to specify that for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR will be calculated based on the reference price at that time. Amendment No. 1 also sets forth additional justification for the proposed rule change. The Commission believes that these revisions provide greater clarity with respect to the current and proposed application of the ATR for routed away orders. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[26] to approve the proposed rule change, as modified by Amendment No. 1 on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[27] that the proposed rule change (SR–ISE–2018–16), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

[26] 15 U.S.C. 78s(b)(2).

[27] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10978 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83289; File No. SR–NYSENAT–2018–02]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended by Amendment No. 1, To Support the Re-Launch of NYSE National, Inc. on the Pillar Trading Platform

May 17, 2018.

I. Introduction

On February 21, 2018, NYSE National, Inc. (''NYSE National'' or ''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 in connection with the re-launch of the Exchange on the Pillar trading platform. The proposed rule change was published for comment in the **Federal Register** on March 13, 2018.[3] The Commission received no comments on the proposed rule change. On April 25, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On May 16, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes and replaces the original filing in its entirety.[6] The Commission is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, and is soliciting comments on Amendment No. 1.

II. Description of the Proposal

On February 1, 2017, the Exchange ceased trading operations.[7] The Exchange proposes to re-launch trading operations on Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE American LLC (''NYSE American''), and New York Stock Exchange LLC (''NYSE'').

Currently, NYSE Arca's cash equities market,[8] NYSE American's cash equities market,[9] and NYSE securities that trade on an unlisted trading privileges basis[10] trade on Pillar. NYSE Arca, NYSE American, and NYSE have trading rules that are substantially similar and that are based on the rule numbering framework of NYSE Arca.[11]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82819 (March 7, 2018), 83 FR 11098 (March 13, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No.83100 (April 25, 2018), 83 FR 19127 (May 1, 2018).

[6] In Amendment No. 1, the Exchange proposes, among other things, to: (i) Delete proposed Rule 8 and modify proposed Rule 5 to include only those rules that would support the trading on an unlisted trading privileges (''UTP'') basis of all NMS Stocks and the trading on a UTP basis of UTP Exchange Traded Products; (ii) revise the proposed definition of the term ''UTP Exchange Traded Product''; (iii) propose a grace period of 30 calendar days for ETP Holders that are eligible for the expedited process for reinstatement under the proposal to register their Associated Persons with the Exchange; (iv) commit to working with Commission staff to update its membership rules and to file a separate filing relating to its membership rules within 90 days of any approval of the instant proposal; (v) identify which of the proposed Rules are based on the rules of NYSE American, as opposed to those based on the rules of NYSE Arca; (vi) add provisions, based on rules of other self-regulatory organizations (''SROs''), that were not included in the original filing; (vii) add a rule relating to the requirements for listed securities issued by Intercontinental Exchange, Inc. (''ICE'') or its affiliates; (viii) specifically incorporate by reference certain rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') that were only cited in the original version of the filing; (ix) add clarifying language to proposed rule text and the narrative describing the proposal; and (x) correct various technical errors. The proposed revisions of the proposal made in Amendment No. 1 are incorporated in the Description of the Proposal herein. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nysenat-2018-02/nysenat201802-3653908-162416.pdf.*

[7] *See* Securities Exchange Act Release No. 80018 (February 10, 2017), 82 FR 10947 (February 16, 2017) (SR–NSX–2017–04) (''Termination Filing''). On January 31, 2017, ICE, through its wholly-owned subsidiary, NYSE Group, acquired all of the outstanding capital stock of the Exchange (the ''Acquisition''). *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16). Prior to the Acquisition, the Exchange was named ''National Stock Exchange, Inc.'' and was referred to as ''NSX.''

[8] For a history of the implementation of Pillar on NYSE Arca, *see* Notice, *supra* note 3, at footnote 6.

[9] For a history of the implementation of Pillar on NYSE American, *see* Notice, *supra* note 3, at footnote 7.

[10] For a history of the implementation of Pillar on NYSE, *see* Notice, *supra* note 3, at footnote 8.

[11] According to the Exchange, NYSE American and NYSE proposed specific differences to certain trading rules with respect to NYSE Arca to differentiate their respective trading models, noting,

The Exchange proposes to re-launch trading on Pillar in all Tape A, Tape B, and Tape C securities on a UTP basis on a fully automated price-time priority allocation model. Unlike its affiliated exchanges, the Exchange does not propose to be a listing venue. Because the Exchange would trade securities on a UTP basis only, the Exchange proposes to operate in the same manner as its affiliated exchanges, NYSE Arca, NYSE American, and NYSE, with respect to securities that trade on a UTP basis on those exchanges. For example, the Exchange does not propose to operate any auctions and therefore does not propose rules to provide for auction functionality on the Exchange.[12] In addition, because the Exchange would not be a listing venue, the Exchange would not provide for either ''lead'' or ''designated'' market makers, which are available on NYSE Arca, NYSE, and NYSE American, respectively, for securities listed on those exchanges. As with NYSE Arca and NYSE American, the Exchange proposes rules that would provide that ETP Holders may register as market makers in securities that trade on a UTP basis on the Exchange. And, as with NYSE Arca and NYSE American, the Exchange proposes not to require that there be a market maker in a particular security on the Exchange for that security to trade on a UTP basis on the Exchange. Similar to NYSE American and to how NYSE trades securities on an unlisted trading privileges basis on Pillar, the Exchange also does not propose to operate a retail liquidity program.

While the Exchange proposes trading rules for the re-launch based on the rules of its affiliated exchanges, it also proposes to retain and renumber certain of its existing rules relating to membership and ETP Holder conduct. In certain cases, the Exchange proposes to replace an existing rule with a rule harmonized with conduct rules of other SROs.

Because the Exchange is not proposing new or different rules to qualify as a member of the Exchange for the re-launch, the Exchange proposes to reinstate ETP Holder status[13] using the existing process described in Interpretation and Policies .01 to current Rule 2.5, which sets forth an expedited process for reinstatement as an ETP Holder and to register Associated Persons established when the Exchange re-launched operations in 2015.[14] In Amendment No. 1, the Exchange proposes new Commentary .01 to proposed Rule 2.5, which would provide those ETP Holders reinstated pursuant to the expedited process 30 calendar days in which to register their Associated Persons with the Exchange.[15] Further, in Amendment No. 1, the Exchange represents that it understands that the rules set forth in Chapter II of the current rule book may not reflect certain harmonized standards for membership rules of other SROs. While the Exchange proposes to retain its existing membership rules, subject to the changes discussed below, for purposes of the re-launch, the Exchange represents that it commits to working with Commission staff to update its membership rules and will file a separate filing relating to its membership rules within 90 days of any approval of its proposed rule change.[16]

In addition, the Exchange proposes to amend Article V, Sections 5.1 and 5.8 of the Exchange's Bylaws by revising references to ''Appeals Committee'' to ''Committee for Review.'' Because the existing NYSE National rulebook would be replaced with both new and renumbered rules under the new framework, the Exchange also proposes to delete Chapters I–XVI of the current rulebook and the rules contained therein.

The following is a brief overview of each rule section[17] that would be included in the Exchange's rulebook, as proposed to be revised, and that would incorporate proposed changes to individual sections, as reflected in Amendment No. 1.[18]

Rule 0—Regulation of the Exchange and ETP Holders

Proposed Rule 0 would establish the framework for the regulation of the Exchange and its ETP Holders. Proposed Rule 0 acknowledges that the Exchange and FINRA are parties to a regulatory services agreement in which FINRA will perform certain functions on behalf of the Exchange, with the Exchange retaining ultimate legal responsibility for, and control of, such functions.

Rule 1—Definitions

Proposed Rule 1 would contain definitions applicable to trading on the Exchange's Pillar platform.[19] In Amendment No. 1, the Exchange proposes to modify Rule 1.1(m) from the initial filing to define the term ''UTP Exchange Traded Product'' to mean one of a list of specified classes of Exchange Traded Products that the Exchange intends to trade pursuant to unlisted trading privileges. The enumerated Exchange Traded Products that would be eligible to trade on the Exchange pursuant to unlisted trading privileges would include the following: Equity Linked Notes, Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed-Income Index-Linked Securities, Futures-Linked Securities, Multifactor-Index-Linked Securities, Trust Certificates, Currency and Index Warrants, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares and Managed Trust Shares.

Rule 2—Trading Permits

Proposed Rule 2 would set forth the membership rules for the Exchange, including the eligibility requirements,[20]

for example, that NYSE American has a delay mechanism and does not offer specified order types. *See id.* The Exchange states that it does not propose to offer a trading model that is differentiated from NYSE Arca. It does propose, however, certain differences in some of the details of its rules, as further discussed below. In addition, in preparation for the re-launch of trading, the Exchange adopted the rule numbering framework of the NYSE Arca rules, which at that time were organized in 14 Rules. *See* Securities Exchange Act Release No. 81782 (September 29, 2017), 82 FR 81782 (October 5, 2017) (SR–NYSENat–2017–04) (Notice of Filing and Immediate Effectiveness).

[12] However, the Exchange would make available certain order types that currently exist on NYSE Arca, NYSE American, and NYSE for securities that trade on a UTP basis, which provide for routing directly to the primary listing market. In addition, similar to NYSE Rule 7.31(c), the Exchange would offer ''Auction-only Orders,'' which are orders designated to participate in an auction on the primary listing market. The Exchange would route all such orders to the primary listing market. The proposed rules governing such order types on the Exchange are based on the recently-approved rules governing trading on Pillar on the NYSE. *See* Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR–NYSE–2017–36).

[13] When the Exchange ceased operations, the Exchange terminated the ETP status of all ETP Holders as of the close of business on February 1, 2017. *See* Termination Filing, *supra* note 7.

[14] *See* Securities Exchange Act Release No. 75098 (June 3, 2015), 80 FR 32644 (June 9, 2015) (Notice of filing and immediate effectiveness of proposed rule change to establish expedited process to reinstate ETP Holder status). Pursuant to that rule, approved ETP Holders that were in good standing as of the close of business on May 30, 2014, when the Exchange previously ceased trading operations, had their ETP Holder status reinstated and Associated Persons registered pursuant to an expedited process.

[15] *See* Amendment No. 1, *supra* note 6.

[16] *Id.*

[17] Rules 4, 8, and 9 are proposed to be ''Reserved.''

[18] *See* Amendment No. 1, *supra* note 6.

[19] The proposed definitions are based on the rules of NYSE Arca, NYSE American, and NSX.

[20] *See* proposed Rules 2.2, 2.3, and 2.4.

continuing education requirements,[21] and application requirements [22] to become an ETP Holder. It also would set forth rules relating to revocation,[23] voluntary termination,[24] and transfer and sale [25] of an ETP.[26] Proposed Rule 2 would provide jurisdiction [27] to the Exchange to discipline ETP Holders [28] and Persons Associated with ETP Holders for violations of, among other things, the Act and the rules thereunder.[29] It also would provide the Exchange the ability to prescribe reasonable dues, assessments, and charges [30] and would include rules concerning the mandatory testing of the Exchange's business continuity and disaster recovery plans.[31] In Amendment No. 1, the Exchange represents that there are no categories of persons on the Exchange that would fall outside of the membership categories and requirements set forth in proposed Rule 2.[32]

The proposed rules are based on the Exchange's existing membership rules with the following substantive differences: (1) The Exchange proposes to delete Rule 2.10, as proposed Rule 3.9 would cover the relationship between ETP Holders and Exchange affiliates; (2) Archipelago Securities LLC would replace NSX Securities LLC as the routing broker for the Exchange, so the Exchange proposes to delete current Rules 2.11 and 2.12,[33] and instead adopt proposed Rule 7.45,[34] which is based on NYSE Arca Rule 7.45–E, to cover the Exchange's routing function.

NYSE National also proposes an expedited process for reinstating ETP Holders. The ETP Holder would be able to submit a short form application to reinstate its status as an ETP Holder and to register Persons Associated with the ETP Holder if the ETP Holder was in good standing at the close of business on February 1, 2017, is a member of another SRO, and each proposed Person Associated with such ETP Holder holds an active and recognized securities industry registration and meets the requirements of proposed Rule 2.2(b).[35]

In Amendment No. 1, the Exchange proposes a grace period of 30 calendar days from the effective date of proposed Rule 2.5 for ETP Holders that are eligible for the expedited process for reinstatement to register Persons Associated with the ETP Holder with the Exchange.[36] According to the Exchange, to be eligible for the expedited process and the temporary grace period, the ETP Holder already must have Persons Associated with the ETP Holder registered in the FINRA Central Registration Depository System (''CRD'').[37] ETP Holders that take advantage of the proposed grace period would be able to begin trading on the Exchange before they complete registering their Persons Associated with the Exchange.

As noted above, the Exchange proposes to retain its existing rules relating to membership, which may not reflect certain harmonized standards for membership rules of other SROs. However, in Amendment No. 1, the Exchange commits to working with Commission staff to update its membership rules and to file a separate filing relating to its membership rules within 90 days of any approval of the Exchange's proposed rule change.[38]

Proposed Rule 2.3, as a prerequisite to membership, would require an ETP Holder to be a member of a registered national securities association or of a registered national securities exchange. As a member of two or more SROs, an ETP Holder would be required to comply with whichever rules impose a higher standard.

Rule 3—Organization and Administration

Proposed Rule 3 would include rules relating to: (1) The potential actions the Exchange may take for ETP Holder's failure to pay any assessments, dues or other changes to the Exchange within 45 days after they become payable; (2) a prohibition on an ETP Holder being affiliated with NYSE Group, Inc.; (3) prompt written notification to the Exchange whenever an ETP Holder is expelled or suspended from any SRO, encounters financial difficulty or operating inadequacies, fails to perform contracts or becomes insolvent; and (4) requirements for fingerprint-based background checks of Exchange employees and others. In Amendment No. 1, the Exchange proposes to add a rule relating to additional requirements to be undertaken by the Exchange if securities issued by ICE or its affiliates are traded on the Exchange.[39]

Rule 5—Trading on an Unlisted Trading Privileges Basis

Proposed Rule 5 would provide for rules to trade all Tape A, Tape B, and Tape C securities, including Exchange Traded Products (also referred to herein as ''ETPs''), on a UTP basis.[40] In Amendment No. 1, the Exchange states that it does not believe that it is necessary for an exchange that trades securities only on a UTP basis to have listing rules for ETPs.[41] The Exchange further states that, as a non-listing venue, the Exchange would not have a relationship with any ETP issuers; thus, to the extent ETP listing rules include initial and continued listing standards, the Exchange would not be in a position to evaluate issuer compliance with such rules.[42] Similarly, the Exchange states its belief that it should not be necessary for a non-listing venue to file with the Commission a Form 19b–4(e) if it begins trading an ETP on a UTP basis, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' [43] The Exchange therefore believes that the requirements of that rule refer to when an exchange lists and trades an ETP, and not when an exchange seeks only to trade such product on a UTP basis pursuant to Rule 12f–2 under the Act.[44] Accordingly, the proposal, as amended by Amendment No. 1, contains only those rules that would support the trading on a UTP basis of all NMS Stocks, and the trading on a UTP basis for UTP Exchange Trading Products, which are set forth in proposed Rule 5.1. Further, the Exchange does not propose rules other than Rule 5.1 or any of the provisions it previously had

[21] *See* proposed Rule 2.2.

[22] *See* proposed Rule 2.5.

[23] *See* proposed Rule 2.6.

[24] *See* proposed Rule 2.7.

[25] *See* proposed Rule 2.8.

[26] *See* proposed Rule 1.1(h) (defining ''ETP'').

[27] *See* proposed Rule 2.2(a).

[28] *See* proposed Rule 1.1(i) (defining ''ETP Holder'').

[29] Rules 2.10, 2.11, and 2.12 are marked ''Reserved.''

[30] *See* proposed Rule 2.9.

[31] *See* proposed Rule 2.13.

[32] *See* Amendment No. 1, *supra* note 6.

[33] By its terms, NSX Rule 2.12 expired on September 30, 2008. *See* current Rule 2.12.

[34] *See* proposed Rule 7.45.

[35] *See* Commentary .01 to proposed Rule 2.5.

[36] *See id.; see also* Amendment No. 1, *supra* note 6.

[37] *See* Commentary .01 to proposed Rule 2.5; *see also* Amendment No. 1, *supra* note 6.

[38] *See* Amendment No. 1, *supra* note 6.

[39] *Id.*

[40] In the Notice, the Exchange proposed both Rules 5 and 8 to establish listing rules for Exchange Traded Products that are based on NYSE American Rules 5E and 8E and NYSE Rules 5P and 8P. *See* Notice, *supra* note 3. Because the Exchange would not be a listing venue, in Amendment No. 1, the Exchange proposes to modify its proposal to eliminate the listing rules contained in Rules 5 and 8. *See* Amendment No. 1, *supra* note 6. In particular, in Amendment No. 1, the Exchange proposes to delete proposed Rule 8 and modify proposed Rule 5 to include only those rules that would support the trading on a UTP basis of all NMS Stocks, and the trading on a UTP basis of UTP Exchange Traded Products.

[41] *See* Amendment No. 1, *supra* note 6.

[42] *Id.*

[43] 17 CFR 240.19b–4(e). *See* Amendment No. 1, *supra* note 6.

[44] 17 CFR 240.12f–2. *See* Amendment No. 1, *supra* note 6.

proposed in Rule 8, which would be designated as Reserved.[45]

Proposed Rule 5.1 would establish the Exchange's authority to trade securities on a UTP basis. Proposed Rule 5.1(a)(1) would provide that the Exchange may extend UTP to any security that is an NMS Stock that is listed on another national securities exchange or with respect to which UTP may otherwise be extended in accordance with Section 12(f) of the Exchange Act.[46]

Proposed Rule 5.1(a)(1) would further provide that any such security would be subject to all Exchange rules applicable to trading on the Exchange, unless otherwise noted. The Exchange notes that this proposed rule text is based in part on NYSE Arca Rule 5.1–E(a) and EDGA Rule 14.1, but with a proposed difference to refer generally to Exchange rules, and not limit such reference to Exchange trading rules. This would make clear that all Exchange rules would be applicable to the trading of securities on a UTP basis on the Exchange, including business conduct and sales practice rules set forth in proposed Rule 11.

Proposed Rule 5.1(a)(2) would establish additional rules for trading of UTP Exchange Traded Products, which are defined in Rule 1.1 (described above).[47] Specifically, the requirements in subparagraphs (A)–(E) of proposed Rule 5.1(a)(2) would apply to UTP Exchange Traded Products traded on the Exchange. Because the Exchange is not proposing that the Exchange would file with the Commission a Form 19b–4(e) with respect to each UTP Exchange Traded Product within five business days after commencement of trading, the Exchange does not propose rule text based on NYSE American Rule 5.1E(a)(2)(A) or NYSE Rule 5.1(a)(2)(A).

Proposed Rule 5.1(a)(2)(A) would provide that the Exchange would distribute an information circular prior to the commencement of trading in an Exchange Traded Product that generally would include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the Exchange Traded Product, (b) the Exchange's rules that will apply to the Exchange Traded Product and (c) information about the dissemination of value of the underlying assets or indices. Under proposed Rule 5.1(a)(2)(C), the Exchange would halt trading in a UTP Exchange Traded Product as provided for in proposed Rule 7.18.

Proposed Rule 5.1(a)(2)(E) would provide that the Exchange's surveillance procedures for Exchange Traded Products traded on the Exchange pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems.

Proposed Rules 5.1(a)(2)(B) and (D) would establish the following requirements for ETP Holders that have customers that trade UTP Exchange Traded Products:

- *Prospectus Delivery Requirements.* Proposed Rule 5.1(a)(2)(B)(i) would remind ETP Holders that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (the ''Securities Act''), unless the Exchange Traded Product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940, as amended (the ''1940 Act''), and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. ETP Holders would also be required to provide a prospectus to a customer requesting a prospectus.[48]
- *Written Description of Terms and Conditions.* Proposed Rule 5.1(a)(2)(B)(ii) would require ETP Holders to provide a written description of the terms and characteristics of UTP Exchange Traded Products to purchasers of such securities, not later than the time of confirmation of the first transaction, and with any sales materials relating to UTP Exchange Traded Products.
- *Market Maker Restrictions.* Proposed Rule 5.1(a)(2)(D) would establish certain restrictions for any ETP Holder registered as a market maker in an UTP Exchange Traded Product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities (collectively, ''Reference Assets''). Specifically, such an ETP Holder must file with the Exchange and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives (collectively with Reference Assets, ''Related Instruments''), which the ETP Holder acting as registered market maker may have or over which it may exercise investment discretion.[49] If an account in which an ETP Holder acting as a registered market maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, has not been reported to the Exchange as required by this Rule, an ETP Holder acting as registered market maker in the UTP Exchange Traded Product would not be permitted to trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives. Finally, a market maker could not use any material nonpublic information in connection with trading a Related Instrument. According to the Exchange, proposed Rule 5.1(a)(2)(D) is based in part on BZX Rule 14.11(j)(5).[50]

Rule 6—Consolidated Audit Trail and Order Audit Trail System

Proposed Rule 6 would incorporate the Exchange's existing rules relating to the Consolidated Audit Trail National Market System Plan (''CAT NMS Plan'') without any substantive changes. Proposed Rule 6 would include 12 rules covering the following areas: (1) Definitions; (2) Clock Synchronization; (3) Industry Member Data Reporting; (4) Customer Information Reporting; (5) Industry Member Information Reporting; (6) Time Stamps; (7) Clock Synchronization Rule Violation; (8) Connectivity and Data Transmission; (9) Development and Testing; (10) Recordkeeping; (11) Timely, Accurate and Complete Data; and (12) Compliance Dates. Proposed Rule 6.6900 would establish procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Proposed Rule 6.7400 would contain a series of rules that implement Order Audit Trail rules relating to definitions; applicability; synchronization of ETP Holder business clocks; recording of

[45] *See* note 41, *supra.* In Amendment No. 1, the Exchange states its belief that its proposed rule text in Rule 5, together with the proposed definition of UTP Exchange Traded Products in proposed Rule 1.1, which would enumerate the classes of Exchange Traded Products that the Exchange proposes to trade on a UTP basis, would satisfy the requirements of Rule 12f–5 under the Act, 17 CFR 240.12f–5, for a national securities exchange to have a rule or rules providing for transactions in a class or type of security to which the Exchange extends unlisted trading privileges. *See* Amendment No. 1, *supra* note 6.

[46] 15 U.S.C. 78*l*(f). *See also* 17 CFR 242.600. The term ''NMS Stock'' is defined in proposed Rule 1.1(u).

[47] *See* Proposed Rule 1.1(m).

[48] Proposed Rule 5.1(a)(2)(B)(iii).

[49] The proposed rule would also, more specifically, require a market maker to file with the Exchange and keep current a list identifying any accounts (''Related Instrument Trading Accounts'') for which related instruments are traded (1) in which the market maker holds an interest, (2) over which it has investment discretion, or (3) in which it shares in the profits and/or losses. In addition, a market maker would not be permitted to have an interest in, exercise investment discretion over, or share in the profits and/or losses of a Related Instrument Trading Account that has not been reported to the Exchange as required by the proposed rule.

[50] *See* Amendment No. 1, *supra* note 6.

order information; order data transmission requirements; violation of order audit trail system rules; and exemption to the order recording and data transmission requirements.[51]

Rule 7—Equities Trading

Rule 7 establishes the rules for trading on the Exchange. As noted above, the Exchange proposes to re-launch on the same trading platform as the cash equities trading platform of NYSE Arca. Thus, the provisions of proposed Rule 7 are, in large part, based on equivalent rules of NYSE Arca for this platform. In some instances, however, the proposed trading rules reflect a choice to adopt the version of a particular provision used by NYSE American and NYSE.[52]

Proposed Rule 7 is divided into six sections. Section 1, ''General Provisions,'' [53] includes provisions relating to hours of business on the Exchange and holidays when it will not be open; responsibilities of ETP Holders and associated persons with respect to their roles in transactions and their charging of commissions; ex-dividend and ex-rights dates; units of trading; trading differentials; anonymity of bids and offers; settlement terms; binding prices; clearly erroneous executions; Exchange compliance with the Limit Up-Limit Down National Market System Plan; trading halts and suspensions; clearance and settlement; stock option transactions of market makers; short sales; and firmness of quotes.

Section 2 of proposed Rule 7, ''Market Makers,'' [54] includes provisions relating to registration of Market Makers. The section also includes proposed rules pertaining to access to quotations, private linkages, and compliance with Regulation NMS under the Act.

Section 3 of proposed Rule 7, ''Exchange Trading,'' [55] after setting forth provisions regarding authorized access to the Exchange, establishes rules relating to the kinds of order types available on the Exchange and how they are designed to trade. Section 3 of proposed Rule 7 also would set forth the rules of the Exchange relating to order entry; the codes by which the ETP Holder submitting an order must indicate whether it is acting in a principal, agency, or riskless principal capacity; and the three trading sessions for which the Exchange will be open (early, core, and late), including the securities that may be traded in each and the disclosures that ETP Holders must make to non-ETP Holders that send orders to them for trading in the early or late session regarding, among other things, the risks that may apply to such orders.[56]

Further, Section 3 of proposed Rule 7 would establish rules relating to the display and non-display of various order types, the ranking of orders in the Exchange book with respect to execution priority, and the role of price and time in determining such priority.[57] The section also includes proposed rules that pertain to routing of orders to away markets; the prohibition of trading through protected quotations and exceptions thereto; and compliance with other aspects of Regulation NMS under the Act.[58] It also lists the data feeds that the Exchange proposes to use for the handling, execution, and routing of orders, as well as regulatory compliance.[59] Additional proposed rules in Section 3 relate to odd lot and mixed lot trading on the Exchange; trade execution and reporting; and clearance and settlement of trades.[60]

Section 4 of proposed Rule 7, ''Operation of Routing Broker,'' would define ''routing broker'' as ''the broker-dealer affiliate of the Exchange and/or any other non-affiliate third-party broker-dealer that acts as a facility of the Exchange for routing orders entered into Exchange systems to other market centers for execution whenever such routing is required by Exchange rules or the federal securities laws,'' and would set forth rules regarding the outbound routing function.[61]

Section 4 also would provide that, for so long as the Exchange is affiliated with NYSE American, NYSE Arca, and NYSE, and Archipelago Securities LLC (''Arca Securities) in its capacity as a facility of those exchanges is utilized by those affiliated exchanges for the routing of any approved types of orders from those exchanges to NYSE National, Arca Securities may provide inbound routing services to NYSE National from those affiliated exchanges.[62] This provision is contingent on the Exchange maintaining an agreement pursuant to Rule 17d–2 under the Act [63] with a non-affiliated SRO and establishing controls and procedures to prevent Arca Securities from benefitting from or acting on non-public information obtained as a result of the affiliation.[64]

Section 5 of proposed Rule 7, ''Plan to Implement a Tick Size Pilot Program'' [65] would establish requirements relating to the Tick Size Pilot Program adopted as a joint industry plan under Regulation NMS under the Act, and is based on the similar rule of NYSE Arca.[66]

Section 6 of proposed Rule 7, ''Contracts in Securities,'' [67] would provide that contracts in municipal securities be compared, settled, and cleared in accordance with regulations of the Municipal Securities Rulemaking Board; set forth requirements relating to ETP contracts of an ETP Holder with another ETP Holder; and establish requirements relating to the book entry settlement of transactions.[68]

Rule 10—Disciplinary Proceedings, Other Hearings, and Appeals

Proposed Rule 10 consists of proposed Rule 10.8000, Investigations and Sanctions, and proposed Rule 10.9000, Code of Procedure, (''Rule

[51] The Exchange notes that at the time that it ceased operations, it did not require its ETP Holders to maintain order information pursuant to an order tracking system and, therefore, did not have the proposed OATS rules or similar rules in its rulebook. According to the Exchange, requiring ETP Holders to comply with the proposed OATS requirements in connection with its re-launch of trading would not impose an undue burden on such ETP Holders or their associated persons because nearly all ETP Holders are expected to be members of another SRO that requires compliance with OATS requirements and because order information pursuant to the OATS rules need only be submitted upon request.

[52] The Exchange has identified which of its proposed rules are based on the rules of NYSE American, as opposed to those based on the rules of NYSE Arca. *See* Amendment No. 1, *supra* note 6. The Exchange also has identified certain trading rules of NYSE Arca and NYSE American that it is not proposing to adopt. For example, the Exchange states that, because it would not be a listing venue, it is not proposing to adopt rules relating to lead or designated market makers. The Exchange also states that it would not operate auctions, and therefore is not proposing rules pertaining to auction procedures.

[53] Section 1 comprises proposed Rules 7.1 through 7.18.

[54] Section 2 comprises proposed Rules 7.19 through 7.28.

[55] Section 3 comprises proposed Rules 7.29 through 7.41 (with Rules 7.42 through 7.44 reserved for future use).

[56] *See* proposed Rules 7.32 (Order Entry); 7.33 (Capacity Codes); and 7.34 (Trading Sessions).

[57] *See* proposed Rules 7.36 (Order Ranking and Display).

[58] *See* proposed Rules 7.37 (Order Execution and Routing).

[59] *Id.*

[60] *See* proposed Rules 7.38, 7.40, and 7.41, respectively. (Rule 7.39 is reserved for future use, as are Rules 7.42, 7.43, and 7.44.)

[61] *See* proposed Rule 7.45, which comprises the whole of Section 4.

[62] Proposed Rule 3.9 would provide that, unless approved by the Commission, neither NYSE Group, Inc., nor any of its affiliates (as such term is defined in Rule 12b–2 under the Act) shall hold, directly or indirectly, an ownership interest in any ETP Holder. Arca Securities would be covered by this provision.

[63] 17 CFR 240.17d–2.

[64] *See id.* Proposed Rule 7.45 also includes provisions regarding cancellation of orders and error accounts in connection with the arrangement of the Exchange with Arca Securities.

[65] Section 5 is comprised solely of proposed Rule 7.46.

[66] *See* NYSE Arca 7.46–E.

[67] Section 6 would include proposed Rules 7.60 through 7.62.

[68] *See* proposed Rules 7.61, 7.62, and 7.63, respectively.

10.8000 and Rule 10.9000 Series''), which are based on NYSE American Rule 8000 and Rule 9000 Series of the Office Rules, with certain modifications.[69] Together, the rules would be the Exchange's Disciplinary rules. Other than the differences specified in Amendment No. 1, the proposed Rule 10.8000 and 10.9000 Series are based on the individual counterpart NYSE American Rule 8000 and 9000 Series.[70] Given the different membership structures, lack of a physical trading floor,[71] and differences in terminology throughout the rules, the proposed Rule 10.8000 and Rule 10.9000 Series would differ from the NYSE American rules as follows:

- The term ''ETP Holder'' is used rather than ''member and member organization'' or ''member organization or ATP Holder'';
- the terms ''Associated Person'' and ''Person Associated with an ETP Holder,'' which are defined terms on the Exchange are used rather than the term ''covered person'';
- not adopt NYSE American Rules 8001 and 9001, which describe the effective date of the NYSE American rules;
- not retain the text of NYSE American's legacy minor rules;
- add the following sentence, from NYSE Arca Rule 10.2(a), to Rule 10.8210(a): ''No member of the Board of Directors or non-Regulatory Staff may interfere with or attempt to influence the process or resolution of any pending investigation or disciplinary proceeding'';
- exclude the definition of the following terms in Rule 10.9120: ''Board of Directors,'' ''covered person,'' ''Exchange,'' and ''Floor-Based Panelist,'' because they are defined elsewhere in the rules or are not applicable to the Exchange, and would mark those paragraphs as ''Reserved'';
- add the following sentence to proposed Rule 10.9120(v)'s definition of ''Panelist'': ''Hearing Panel members will be drawn from the Exchange Business Conduct Committee ('BCC')'';
- merge the current Rule 8.15 and NYSE American Rule 9217 to create proposed Rule 10.9217, which sets forth the Exchange's Minor Rule Violation Plan;[72]
- replace the phrase ''an ETP Holder that is an affiliate'' from NYSE American Rule 9268(e)(2) with ''an affiliate of the Exchange as such term is defined in Rule 12b–2 under the Exchange Act,'' in proposed Rules 10.9268 and 10.9310(a)(1); and
- propose non-substantive grammatical differences in specified rules, as needed, and update internal cross references to the appropriate Exchange rule.

Rule 11—Business Conduct

The Exchange proposes to maintain certain current NYSE National rules regarding rules of fair practice, books and records, supervisions, extensions of credit, and trading practices and relocate these rules to proposed Rule 11. The Exchange also proposes to adopt conduct rules that are based on FINRA rules and to incorporate certain FINRA rules by reference.[73]

Section 1 of proposed Rule 11 would be designated as Rules of Fair Practice and the preamble thereto would state that ''References to the term ETP Holder in Section 1 to Rule 11 also mean Associated Persons of ETP Holders.'' The rules in Section 1 to proposed Rule 11 relate to Business Conduct of ETP Holders,[74] Violations Prohibited,[75] Use of Fraudulent Devices,[76] False Statements,[77] Advertising Practices,[78] Fair Dealing with Customers,[79] The Prompt Receipt and Delivery of Securities,[80] Charges for Services Performed,[81] Use of Information,[82] Publication of Transactions and Quotations,[83] Offers at Stated Prices,[84] Payment Designed to Influence Market Prices, Other than Paid Advertising,[85] Disclosure of Control,[86] Discretionary Accounts,[87] Customer's Securities or Funds,[88] Prohibition Against Guarantees,[89] Sharing in Accounts; Extent Permissible,[90] and Telephone Solicitation.[91]

Section 2 of proposed Rule 11 would be designated as Books and Records and the rules thereunder would relate to Requirements,[92] Furnishing of Records,[93] Record of Written Complaints,[94] and Disclosure of Financial Condition.[95]

Section 3 of proposed Rule 11 would be designated as Supervision and the rules thereunder would relate to Written Procedures,[96] Responsibility of ETP Holders,[97] Records,[98] Review of Activities and Annual Inspection,[99] Prevention of the Misuse of Material, Nonpublic Information,[100] and Annual Certification of Compliance and Supervisory Processes.[101]

Section 4 of proposed Rule 11 would be designated as Extensions of Credit and the rules thereunder would relate to Extensions of Credit—Prohibitions and Exemptions [102] and Day Trading Margin.[103]

Section 5 of proposed Rule 11 would be designated as Trading Practice Rules and the preamble thereto would state that ''References to the term ETP Holder in Section 5 to Rule 11 also mean Associated Persons of ETP Holders.'' The rules in Section 5 of proposed Rule 11 relate to Market Manipulation,[104] Fictitious Transactions,[105] Excessive Sales by an ETP Holder,[106] Manipulative Transactions,[107] Dissemination of False Information,[108] Joint Activity,[109] Influencing the Consolidated Tape,[110] Options,[111] Best

[69] NYSE American Rule 8000 and Rule 9000 Series are substantially the same as the Rule 8000 and Rule 9000 Series of NYSE and of FINRA. *See* Securities Exchange Act Release No. 77241 (February 26, 2016), 81 FR 11311 (March 3, 2016) (SR–NYSEMKT–2016–30). *See also* Securities Exchange Act Release No. 78959 (September 28, 2016), 81 FR 68481 (October 4, 2016) (SR–NYSEMKT–2016–71). The NYSE American disciplinary rules were implemented on April 15, 2016. *See* NYSE American Information Memorandum 16–02 (March 14, 2016).

[70] *See* Amendment No. 1, *supra* note 6.

[71] Because the Exchange would not have a floor, it would not have Floor-Based Panelists. *See* NYSE American Rules 9120(q), 9212(a)(2)(B), 9221(a)(3), 9231(b)(2) and (c)(2), and 9232(c).

[72] *See* Amendment No. 1, *supra* note 6. The Minor Rule Violation Plan provides an alternative method for the Exchange to address a violation of its rules. The Exchange is always free to pursue formal disciplinary action against a member that violates its rules.

[73] *See* Amendment No. 1, *supra* note 6. In Amendment No. 1, the Exchange proposes to revise or relocate certain rules in Rule 11 that were included in the original proposed rule change.

[74] Proposed Rule 11.3.1.

[75] Proposed Rule 11.3.2.

[76] Proposed Rule 11.3.3.

[77] Proposed Rule 11.3.4.

[78] Proposed Rule 11.3.5.

[79] Proposed Rule 11.3.6.

[80] Proposed Rule 11.3.8.

[81] Proposed Rule 11.3.9.

[82] Proposed Rule 11.3.10.

[83] Proposed Rule 11.3.11.

[84] Proposed Rule 11.13.12.

[85] Proposed Rule 11.13.13.

[86] Proposed Rule 11.13.15.

[87] Proposed Rule 11.13.16.

[88] Proposed Rule 11.13.17.

[89] Proposed Rule 11.13.18.

[90] Proposed Rule 11.13.19.

[91] Proposed Rule 11.13.21.

[92] Proposed Rule 11.4.1.

[93] Proposed Rule 11.4.2.

[94] Proposed Rule 11.4.3.

[95] Proposed Rule 11.4.4.

[96] Proposed Rule 11.5.1.

[97] Proposed Rule 11.5.2.

[98] Proposed Rule 11.5.3.

[99] Proposed Rule 11.5.4.

[100] Proposed Rule 11.5.5.

[101] Proposed Rule 11.5.7.

[102] Proposed Rule 11.6.1.

[103] Proposed Rule 11.6.2.

[104] Proposed Rule 11.12.1.

[105] Proposed Rule 11.12.2.

[106] Proposed Rule 11.12.3.

[107] Proposed Rule 11.12.4.

[108] Proposed Rule 11.12.5.

[109] Proposed Rule 11.12.7.

[110] Proposed Rule 11.12.8.

[111] Proposed Rule 11.12.9.

Execution,[112] and Prearranged Trades.[113]

The Exchange proposes to adopt new conduct rules in Section 6 of proposed Rule 11 (Harmonized Conduct Rules). The rules in Section 6 of proposed Rule 11 relate to Suitability,[114] Communications with the Public,[115] Customer Confirmations,[116] Anti-Money Laundering Compliance Program,[117] Disruptive Quoting and Trading Activity Prohibited,[118] and Prohibition Against Trading Ahead of Customer Orders.[119] Other than proposed Rule 11.5220, relating to Disruptive Quoting and Trading Activity Prohibited, the Section 6 rules would incorporate by reference a specific FINRA rule or, in the case of proposed Rule 11.5320, would set forth the complete rule and also incorporate by reference the relevant FINRA rule.[120]

Rule 12—Arbitration

The Exchange proposes new Rule 12 (Arbitration) to replace rules set forth in Chapter IX relating to arbitration. Proposed Rule 12 would incorporate by reference the Rule 12000 Series and the Rules 13000 Series of the FINRA Manual (Code of Arbitration Procedures for Customer Disputes and Code of Arbitration for Industry Disputes) (the ''FINRA Code of Arbitration'').[121] Proposed Rule 12 would govern jurisdiction and the circumstances under which disputes may be arbitrated;[122] pre-dispute arbitration agreements between ETP Holders and their customers, which would incorporate by reference FINRA Rule 2268;[123] arbitrators' referrals to the Exchange;[124] any failures to honor an arbitrator's award;[125] and the effect of arbitration on the Exchange's rights as an SRO.[126]

Rule 13—Liability of Directors and Exchange

The Exchange proposes new Rule 13, which would set forth the rules governing the liability of its Directors and the Exchange. Proposed Rules 13.1 and 13.2 would set forth limitations on liability of the Directors and the Exchange, respectively.[127] Proposed Rule 13.3 would limit legal proceedings against any Directors, officer, employee, agent or other official of the Exchange or any subsidiary of the Exchange.[128] Proposed Rule 13.4 relates to responsibility for the Exchange's costs in defending a legal proceeding brought against the Exchange.[129]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.[130] In particular, the Commission finds that the amended proposed rule change is consistent with Section 6(b)(5) of the Act,[131] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission further finds that the amended proposed rule change is consistent with Section 6(b)(7) of the Act,[132] which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the disciplining of members and persons associated with members.

1. Re-Launch of the Exchange on the Pillar Trading Platform

The Exchange's proposal would re-launch the Exchange on the Pillar platform as a fully-automated cash equities trading market with a price-time priority allocation model. As discussed at length in Amendment No. 1, the re-launched Exchange would neither list securities nor operate an auction and instead, would trade securities solely on a UTP basis.

The Commission notes that the Exchange's amended proposal, in addition to retaining certain of the Exchange's existing rules, would establish new rules that are based on, and are substantially similar to, the rules of its affiliated exchanges and FINRA, which were filed and approved by the Commission (or which became immediately effective) pursuant to Section 19(b) of the Act.[133] Several of its affiliated exchanges currently operate using the Pillar trading platform, and a number of other national securities exchanges operate fully electronic markets. Accordingly, the Commission finds that the amended proposal raises no novel regulatory issues, that it is reasonably designed to protect investors and the public interest, and that it is consistent with the requirements of the Act. The Commission highlights below its views on certain of the more significant aspects of the Exchange's proposal.

Rule 2—Trading Permits

As noted above, the Exchange proposes to retain its existing membership rules,[134] which may not reflect certain harmonized standards in the membership rules of other SROs. The Commission notes that the Exchange commits to working with Commission staff to update its membership rules and to file a separate filing relating to its membership rules within 90 days of any approval of the Exchange's proposed rule change.[135] Also, an ETP Holder, as a prerequisite to membership, would be required to be a member of a registered national securities association or of a registered national securities exchange.[136] As a member of two or more SROs, an ETP Holder would be required to comply with whichever rules impose a higher standard.

In Amendment No. 1, the Exchange proposes a grace period of 30 calendar days for ETP Holders eligible for the expedited reinstatement process[137] to register Persons Associated with the ETP Holder with the Exchange. ETP Holders who take advantage of the grace period would be able to begin trading on the Exchange before completing the

[112] Proposed Rule 11.12.10.

[113] Proposed Rule 11.12.11.

[114] Proposed Rule 11.2111.

[115] Proposed Rule 11.2210.

[116] Proposed Rule 11.2232.

[117] Proposed Rule 11.3310.

[118] Proposed Rule 11.5220.

[119] Proposed Rule 11.5320.

[120] In its proposed rule change, as amended, the Exchange states that it proposes to file a request that the Commission exercise its authority under Section 36 of the Act and Rule 0–12 thereunder, and grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Act for changes to Exchange rules that will be effected by a cross-reference to a FINRA rule, including FINRA rules designated as NASD rules.

[121] *See* Amendment No. 1, *supra* note 6.

[122] Proposed Rule 12(b).

[123] Proposed Rule 12(c).

[124] Proposed Rule 12(d).

[125] Proposed Rule 12(e).

[126] Proposed Rule 12(f).

[127] Proposed Rule 13.1 and 13.2.

[128] Proposed Rule 13.3.

[129] Proposed Rule 13.4.

[130] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[131] 15 U.S.C. 78f(b)(5).

[132] 15 U.S.C. 78f(b)(7).

[133] *See* 78 U.S.C 78s(b).

[134] The Commission notes the Exchange represents that there are no categories of persons on the Exchange that would fall outside of the membership categories and requirements set forth in proposed Rule 2. *See supra* note 31.

[135] *See supra* note 37.

[136] *See* proposed Rule 2.3.

[137] *See* Commentary .01 to proposed Rule 2.5.

registration of Persons Associated with the Exchange. The Commission notes that, based on the requirements of the expedited process for reinstatement, such ETP Holders would be required to already have Persons Associated with the ETP Holder registered on CRD. The Commission believes that the grace period would remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing ETP Holders to begin trading on the Exchange immediately, without completing the manual process of entering into CRD an additional registration for their Associated Persons, as of the Exchange's re-launch of trading.

Based on the fact that ETP Holders are currently subject to the registration requirements of the other exchange or association of which they are members, as well as on the Commission's expectation that the Exchange will file a proposal within 90 days to conform its membership rules to the membership rules of other SROs, the Commission finds that the Exchange's proposed membership rules are consistent with the requirements of the Act.

The Commission notes that proposed Rule 3.9 provides that, without prior Commission approval, no ETP Holder shall be affiliated with NYSE Group, Inc. or any of its affiliated entities.[138] The Commission finds that it is consistent with the Act to permit Arca Securities to become affiliated with the Exchange for the purposes of providing routing services for the Exchange, subject to conditions described in proposed Rule 7.45.

Rule 5—Trading on an Unlisted Trading Privileges Basis

As discussed above, in Amendment No. 1 the Exchange states that it does not believe that it is necessary for an exchange that trades securities only on a UTP basis to have listing rules for ETPs.[139] Similarly, the Exchange states its belief that it should not be necessary for a non-listing venue to file a Form 19b–4(e) if it begins trading an ETP on a UTP basis, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' [140] Accordingly, the Exchange proposes to adopt only those rules that would support the trading on a UTP basis of all NMS Stocks, and the trading on a UTP basis for UTP Exchange Trading Products.[141]

Proposed Rule 5.1 would establish the Exchange's authority to trade securities on a UTP basis. Proposed Rule 5.1(a)(1) would provide that the Exchange may extend UTP to any security that is an NMS Stock that is listed on another national securities exchange or with respect to which UTP may otherwise be extended in accordance with Section 12(f) of the Act.[142] Proposed Rule 5.1(a)(1) further would provide that any such security would be subject to all Exchange rules applicable to trading on the Exchange, unless otherwise noted.

Proposed Rule 5.1(a)(2) would establish additional rules for trading of UTP Exchange Traded Products, which are defined in Rule 1.1 (described above). Proposed Rule 5.1(a)(2)(A) would provide that the Exchange would distribute an information circular prior to the commencement of trading in an Exchange Traded Product that generally would include the same information as the information circular provided by the listing exchange, including (a) the special risks of trading the Exchange Traded Product, (b) the Exchange's rules that would apply to the Exchange Traded Product and (c) information about the dissemination of value of the underlying assets or indices. Proposed Rule 5.1(a)(2)(E) would provide that the Exchange's surveillance procedures for Exchange Traded Products traded on the Exchange pursuant to UTP would be similar to the procedures used for equity securities traded on the Exchange and would incorporate and rely upon existing Exchange surveillance systems. Proposed Rules 5.1(a)(2)(B) and (D) would establish certain requirements for ETP Holders that have customers that trade UTP Exchange Traded Products.[143]

The Commission finds that the Exchange's proposed approach to the trading of securities on a UTP basis, as set forth in proposed Rule 5, as amended by Amendment No. 1, is consistent with Section 6(b)(5) of the Act.[144] The Commission notes that the provisions in proposed Rule 5 are based upon existing rules of other exchanges.[145] Proposed Rule 5.1 includes a provision that any security traded UTP on the Exchange ''shall be subject to all Exchange rules applicable to trading on the Exchange, unless otherwise noted.'' Importantly, the Exchange notes that this language is intended to make clear that all Exchange rules would be applicable to the trading of UTP on the Exchange, including business conduct and sales practice rules set forth in proposed Rule 11.[146] The Commission notes that, in Amendment No. 1, the Exchange would delete and reserve Rule 8, which it had previously proposed to include listing standards and related provisions for the trading of certain exchange derivatives on the Exchange.[147] The Commission believes that Rule 8, as previously proposed, is not necessary insofar as proposed Rules 5 and 11 would cover all categories of securities traded on the Exchange on a UTP basis.

In sum, the Commission believes that the changes proposed by the Exchange in Amendment No. 1, including the proposed revisions to Rule 5 and the addition of the definitions of ''Exchange Traded Product'' and ''UTP Exchange Traded Product'' that enumerate the classes of Exchange Traded Products to be traded on a UTP basis,[148] as well as the proposed requirement to distribute an information circular prior to the commencement of trading, the business conduct and sales practice rules set forth in Rule 11 (which apply to all securities traded UTP on the Exchange), and the proposed deletion of Rule 8, taken together, establish an appropriate framework for the trading of Exchange Traded Products on a UTP basis on the Exchange.[149] Accordingly, for these reasons, the Commission finds that the

[138] *See* proposed Rule 3.9(a). *See also supra* note 62.

[139] *See* Amendment No. 1, *supra* note 6.

[140] 17 CFR 240.19b–4(e). *See* Amendment No. 1, *supra* note 6.

[141] *See supra* note 41.

[142] 15 U.S.C. 781(f).

[143] Proposed Rule 5.1(a)(2)(B)(i) would remind ETP Holders that they are subject to the prospectus delivery requirements under the Securities Act, unless the Exchange Traded Product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the 1940 Act, and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. ETP Holders also would be required to provide a prospectus to a customer requesting a prospectus. Proposed Rule 5.1(a)(2)(B)(ii) would require ETP Holders to provide a written description of the terms and characteristics of UTP Exchange Traded Products to purchasers of such securities, not later than the time of confirmation of the first transaction, and with any sales materials relating to UTP Exchange Traded Products. Proposed Rule 5.1(a)(2)(D) also would establish certain requirements for any ETP Holder registered as a market maker in an UTP Exchange Traded Product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index composed of currencies or commodities.

[144] 15 U.S.C. 78f(b)(5).

[145] *See* discussion of proposed Rule 5 in Section II., *supra.*

[146] *See* Amendment No. 1, *supra* note 6.

[147] *Id.*

[148] *See* Amendment No. 1, *supra* note 6. As noted in the description of Rule 1 above, the Exchange proposes a definition of UTP Exchange Traded Products, which would enumerate in proposed Rule 1.1 the classes of Exchange Traded Products that the Exchange proposes to trade on a UTP basis. *See* Proposed Rule 1.1(m).

[149] In addition, the Commission believes that the filing of a Form 19b–4(e) is not required when an Exchange is trading a new derivative securities product on a UTP basis only.

proposed rules governing trading on a UTP basis on the Exchange are consistent with Section 6(b)(5) of the Act.

Rule 10—Disciplinary Proceedings, Other Hearings and Appeals

The Exchange states that it is proposing to adopt the current disciplinary rules of NYSE American, which are substantially similar to those of NYSE and FINRA.[150] The Exchange indicates in Amendment No. 1, as discussed above, where proposed Rule 10 differs from the NYSE American disciplinary rules.[151] The Exchange proposes disciplinary rules substantially similar to those of the NYSE American in order to harmonize the rules among the different NYSE Group exchanges and minimize any potential regulatory burden on members arising from differing processes. The Exchange represents that all but one of its ETP Holders are also members of FINRA, NYSE Arca, NYSE American, NYSE, or Nasdaq, and thus they would be familiar with the proposed rules.[152] The Commission believes that the proposed Rule 10.8000 and Rule 10.9000 Series furthers the objectives of Section 6(b)(7) of the Act,[153] in that it provides fair procedures for the disciplining of ETP Holders and persons associated with an ETP Holder, the denial of membership to any person seeking membership therein, and the barring of any person from becoming a person associated with an ETP Holder. For the reasons discussed above, the Commission finds that the proposed changes are consistent with Section 6(b)(7) of the Act.

2. Section 11(a) of the Act

Section 11(a)(1) of the Act [154] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[155] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once the order has been transmitted to the member performing the execution; [156] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor an associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that ETP Holders entering orders into the Exchange's Pillar trading system would satisfy the requirements of Rule 11a2–2(T).

Rule 11a2–2(T)'s first requirement is that orders for covered accounts be transmitted from off the exchange floor. The Exchange represents that it will not have a physical trading floor when it re-launches trading and the Exchange's Pillar trading system will receive orders from members electronically through remote terminals or computer-to-computer interfaces.[157] In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account is transmitted from a remote location directly to an exchange's floor by electronic means.[158] Because the Pillar trading system receives orders electronically through remote terminals or computer-to-computer interfaces, the Commission believes that the Pillar trading system would satisfy this off-floor transmission requirement.

Second, Rule 11a2–2(T) requires that neither the initiating member nor an associated person of the initiating member participate in the execution of the transaction at any time after the order for the transaction has been transmitted. The Exchange represents that the Pillar trading system would at no time following the submission of an order allow an ETP Holder or an associated person of the ETP Holder to acquire control or influence over the result or timing of the order's execution.[159] According to the Exchange, the execution of an ETP Holder's order would be determined solely by the quotes and orders that are present in the system at the time the member submits the order and by the order priority under the Exchange rules.[160] Accordingly, the Commission believes that an Exchange member and its associated persons would not participate in the execution of an order submitted to the Pillar trading system.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member that is not associated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after

[150] *See* Amendment No. 1, *supra* note 6. *See also* Securities Exchange Act Release Nos. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR–NYSE–2013–02) (NYSE disciplinary rule notice), 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (NYSE–2013–02) (NYSE disciplinary rule approval order), 69963 (July 10, 2013), 78 FR 42573 (July 16, 2013) (SR–NYSE–2013–49), and 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (order approving NASD disciplinary rules).

[151] *See* Amendment No. 1, *supra* note 6.

[152] *See* Amendment No. 1, *supra* note 6, fn. 51. *See also* Securities Exchange Act Release No. 56204 (August 3, 2007), 72 FR 45288 (August 13, 2007) (NASDAQ–2007–070) (''To ensure that FINRA members did not incur significant regulatory burdens as a result of Nasdaq separating from FINRA and registering as a national securities exchange, Nasdaq based its rules governing regulatory standards and disciplinary processes on FINRA rules, to a significant extent.'').

[153] *See* 15 U.S.C. 78f(b)(7).

[154] 15 U.S.C. 78k(a)(1).

[155] 17 CFR 240.11a2–2(T).

[156] This prohibition also applies to associated persons of the initiating member. The member may, however, participate in clearing and settling the transaction.

[157] *See* Amendment No. 1, *supra* note 6.

[158] In the context of other all-electronic systems, the Commission has similarly found that the off-floor transmission requirement is met if the system receives orders electronically through remote terminals or computer-to-computer interfaces. *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (granting the application of The Nasdaq Stock Market LLC for registration as a national securities exchange); and 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving the establishment of the Archipelago Exchange as the equities trading facility of PCX Equities, Inc., a subsidiary of the Pacific Exchange, Inc.).

[159] *See* Amendment No. 1, *supra* note 6.

[160] *See id.* The Exchange notes that Rule 11a2–2(T) does not preclude a member from cancelling or modifying orders, or from modifying the instructions for executing orders, after they have been transmitted, provided that such cancellations or modifications are transmitted from off an exchange floor. *See id.* The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as the modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

transmitting them to the exchange.[161] The Exchange represents that the design of the Pillar trading system ensures that no ETP Holder has any special or unique trading advantage in the handling of its orders after transmitting its orders to the Exchange.[162] Based on the Exchange's representation, the Commission believes that the Pillar trading system would satisfy this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[163] ETP Holders trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[164]

[161] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979).

[162] *See* Amendment No. 1, *supra note* 6.

[163] In addition, Rule 11a2–2(T)(d) requires that, if a member or associated person is authorized by written contract to retain compensation in connection with effecting transactions for covered accounts over which the member or associated person thereof exercises investment discretion, the member or associated person must furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 107 (''The contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[164] The Exchange represents that it will advise its membership through the issuance of a Regulatory Bulletin that those ETP Holders trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2–2(T). *See* Amendment No. 1, *supra* note 6.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 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–NYSENAT–2018–02 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–NYSENAT–2018–02. 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–NYSENAT–2018–02 and should be submitted on or before June 13, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. As discussed above, in Amendment No. 1, the Exchange proposes, among other things, to: (i) Delete proposed Rule 8 and modify proposed Rule 5 to include only those rules that would support the trading on a UTP basis of all NMS Stocks and the trading on a UTP basis of UTP Exchange Traded Products; (ii) revise the proposed definition of the term ''UTP Exchange Traded Product''; (iii) propose a grace period of thirty days for ETP Holders that are eligible for the expedited process for reinstatement under the proposal to register their Associated Persons with the Exchange; (iv) commit to working with Commission staff to update its membership rules and to file a separate filing relating to its membership rules within 90 days of any approval of the instant proposal; (v) identify which of the proposed Rules are based on the rules of NYSE American, as opposed to those based on the rules of NYSE Arca; (vi) add provisions, based on rules of other SROs, that were not included in the original filing; (vii) add a rule relating to the requirements for listed securities issued by ICE or its affiliates; (viii) specifically incorporate by reference certain FINRA rules that were only cited in the original version of the filing; (ix) add clarifying language to proposed rule text and the narrative describing the proposal; and (x) correct various technical errors.

The Commission notes that the proposed changes in Amendment No. 1 provide clarifying details, harmonize certain proposed rules with rules of other exchanges, incorporate certain other SRO rules by reference, and otherwise streamline the Exchange's proposed rulebook. The proposed changes do not introduce any rules that differ in any substantive manner from rules that previously have been approved by the Commission, or that have become immediately effective, pursuant to Section 19(b) of the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[165] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis so that the

[165] 15 U.S.C. 78s(b)(2).

Exchange can re-commence operating without unnecessary delay.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[166] that the proposed rule change (SR–NYSENAT–2018–02), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[167]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10986 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[166] *Id.*

[167] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83271; File No. SR–BatsBZX–2017–72]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of the Innovator S&P 500 Buffer ETF Series, Innovator S&P 500 Power Buffer ETF Series, Innovator S&P 500 Enhance and Buffer ETF Series, and Innovator S&P 500 Ultra ETF Series Under Rule 14.11(i)

May 17, 2018.

On November 7, 2017, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') 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 list and trade shares of the Innovator S&P 500 15% Shield Strategy ETF Series, Innovator S&P 500 −5% to −35% Shield Stratey ETF Series, Innovator S&P 500 Enhance and 10% Shield Strategy ETF Series, and Innovator S&P 500 Ultra Strategy ETF Series under BZX Rule 14.11(i) (collectively, the ''Funds'').[3] The proposed rule change was published for comment in the **Federal Register** on November 22, 2017.[4] On December 21, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On February 20, 2018, the Commission initiated proceedings to determine whether to disapprove the proposed rule change.[6] On April 4, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change as originally filed.[7] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on November 22, 2017. May 21, 2018 is 180 days from that date, and July 20, 2018 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, pursuant to Section 19(b)(2) of the Act,[9] the Commission designates July 20, 2018 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–BatsBZX–2017–72), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10972 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 4, 2018, the Exchange filed Amendment No. 1 to the proposed rule change which, among other things, changed the names of the Funds to Innovator S&P 500 Buffer ETF Series, Innovator S&P 500 Power Buffer ETF Series, Innovator S&P 500 Enhance and Buffer ETF Series, and Innovator S&P 500 Ultra ETF Series. *See infra* note 7.

[4] *See* Securities Exchange Act Release No. 82097 (November 16, 2017), 82 FR 55689.

[5] *See* Securities Exchange Act Release No. 82387, 82 FR 61613 (December 28, 2017). The Commission designated February 20, 2018 as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] *See* Securities Exchange Act Release No. 82739, 83 FR 8309 (February 26, 2018).

[7] Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-72/batsbzx201772-3385594-162153.pdf.*

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83272; File No. SR–NASDAQ–2018–038]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 4702(b)(14) To Establish a Price Improvement Only Variation on the Midpoint Extended Life Order

May 17, 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 4, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4702(b)(14) to establish a price improvement only variation on the Midpoint Extended Life Order.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 4702(b)(14) to establish a ''Price Improvement Only'' or ''PIO'' option for the Midpoint Extended Life Order (''M–ELO'').

On March 7, 2018, the Commission issued an order approving the Exchange's proposal to adopt the M–ELO as a new order type.[3] A M–ELO is a non-displayed order that is available to all members but interacts only with other M–ELOs. It is priced at the midpoint between the National Best Bid and Offer (''NBBO'') and it does not become eligible for execution until it completes a half second holding period (the ''Holding Period'').[4] Once the Holding Period elapses, a M–ELO becomes eligible for execution against other M–ELOs on a time-priority basis.[5]

Under existing Rule 4702(b)(14), a member may designate a limit price for a M–ELO, in which case the order would be: (1) Eligible for execution in time priority after satisfying the Holding Period if upon acceptance of the order by the system, the midpoint price is within the limit set by the member; or (2) held until the midpoint falls within the limit set by the member, at which time the Holding Period would commence and thereafter the system would make the order eligible for execution in time priority.

The Exchange now proposes to amend Rule 4702(b)(14) to adopt an optional ''Price Improvement Only'' or ''PIO'' option for the M–ELO.

Under the Exchange's proposal, if a member opts to designate a M–ELO with PIO, then the M–ELO will execute only in circumstances where the NBBO midpoint price provides the Order with price improvement (of at least a half penny for a MELO priced at or above $1.00) as measured against the original limit price of the M–ELO with PIO (*i.e.,* lower than a buy limit price or higher than a sell limit price).[6] The Holding Period of a M–ELO with PIO will commence: (1) Upon acceptance of the Order by the System, if the midpoint price provides price improvement on the limit set by the participant; or (2) when the midpoint price updates such that it provides price improvement on the limit set by the participant. If, at the time when the System accepts the Order, the midpoint of the NBBO equals or is higher than the participant's buy limit price or lower than the participant's sell limit price, as applicable, then the Holding Period for the Order will not commence unless or until the midpoint of the NBBO shifts in a manner that would allow the M–ELO with PIO to execute at a price that provides price improvement, in which case the Holding Period for the Order will commence. If, upon satisfaction of the Holding Period, the midpoint of the NBBO continues to provide price improvement relative to the designated limit price, then the M–ELO with PIO will be eligible for execution in time priority and may execute at that improved price. If upon satisfaction of the Holding Period, however, the midpoint of the NBBO no longer provides price improvement relative to the designated limit price, then the M–ELO with PIO will not be eligible for execution, and it will remain posted on the Nasdaq Book (maintaining its relative priority) unless and until the midpoint of the NBBO shifts in a manner that does provide price improvement, at which point the M–ELO with PIO will be eligible for execution at the improved price.

In all other respects, a M–ELO with PIO will behave the same as an ordinary M–ELO, and as set forth in Rule 4702(b)(14). For example, a M–ELO with PIO will interact only with other M–ELOs (including both ordinary M–ELOs and M–ELOs with PIO) and it will be ranked among ordinary M–ELOs and M–ELOs with PIO on the Nasdaq Book on a time priority basis.

Example 1

Member A enters a M–ELO with PIO to buy 1,000 shares with a limit price of $11.04. At the same time, Member B enters a M–ELO with PIO to sell 1,000 shares with a limit price of $11.02. Assume the Best Bid at the time of entry of these Orders is $11.00 and the Best Offer is $11.06, such that the midpoint price is $11.03. Because the $11.03 midpoint price provides price improvement as measured against Member A's specified limit price and as measured against Member B's specified limit price, the Holding Periods for the two Orders will commence. After the Holding Periods for both Orders conclude, the NBBO remains unchanged and so the Orders are eligible for execution. Accordingly, the two Orders will then execute against each other at $11.03.

Example 2

Member A enters a M–ELO with PIO to buy 500 shares with a limit price of $11.04. At the same time, Member B enters a M–ELO with PIO to sell 1,000 shares with a limit price of $11.03. Just after Member B enters its order, Member C enters a M–ELO to sell 1,000 shares at a limit price of $11.03. Assume the Best Bid at the time of entry of these Orders is $11.00 and the Best Offer is $11.06, such that the midpoint price is $11.03. The Holding Period for Member B's Order will not commence because its limit price equals the midpoint of the NBBO. However, the Holding Periods for Member A's Order and Member C's Order will commence because the $11.03 midpoint of the NBBO is lower/higher than the respective limit prices associated with these two Orders [sic]. At the conclusion of Member A and Member C's Holding Periods, the NBBO remains unchanged. Member A's Order will execute against Member C's Order for 500 shares.

Example 3

Member A enters a M–ELO with PIO to buy 500 shares with a limit price of $11.04. At the same time, Member B enters a M–ELO with PIO to sell 500 shares with a limit price of $11.03. Assume the Best Bid at the time of entry of these Orders is $11.00 and the Best Offer is $11.06, such that the midpoint price is $11.03. At the time of Order entry, the Holding Period for Member B's Order will not commence, because the midpoint of the NBBO equals, but is not higher than, the limit price that Member B designated on its M–ELO with PIO. However, the Holding Period for Member A's M–ELO with PIO Order will commence, because the $11.03 midpoint provides price improvement as measured against Member A's specified limit price. At the conclusion of Member A's Holding Period, the Best Bid becomes $11.02 and the Best Offer remains $11.06, such that the midpoint price becomes $11.04. The Holding Period for Member B's Order will commence, because the $11.04 midpoint price provides price improvement as measured against Member B's specified limit price. At the

[3] *See* Securities Exchange Act Release No. 34–82825 (Mar. 7, 2018), 83 FR 10937 (Mar. 13, 2018).

[4] If a member modifies a M–ELO during the Holding Period, other than to decrease the size of the order or to modify the marking of a sell order as long, short, or short exempt, then such modification will cause the Holding Period to reset.

[5] If a member modifies a M–ELO after the Holding Period elapses, other than to decrease the size of the order or to modify the marking of a sell order as long, short, or short exempt, then such modification will trigger a new Holding Period for the order.

[6] To utilize the PIO variant of M–ELO, a participant must specify a limit price for the order upon entry. If a participant fails to set a limit price, then the Exchange will not accept the order.

conclusion of Member B's Holding Period, Member B's Order will not execute against Member A's Order because the $11.04 midpoint price does not provide price improvement as measured against Member A's specified limit price. However, Member A's Order will remain posted on the Nasdaq book and retain its priority.

The Exchange believes that the M–ELO with PIO will afford members more flexibility with respect to their use of M–ELO and greater opportunities for price improvement when they do so. In particular, the proposal will afford M–ELO participants with a measure of protection against unfavorable movements in the NBBO that may occur during half-second Holding Periods that are unique to M–ELOs. In absence of the PIO feature, members facing such movements will have to constantly manage their M–ELO orders (*e.g.,* canceling and resubmitting their orders). The PIO feature will free members from the need to constantly manage their M–ELO orders during their Holding Periods

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The reasons why the M–ELO with PIO is consistent with the Act are generally the same as those that the Commission identified in its order approving the M–ELO order type.[9] That is, just as the Commission determined that M–ELO ''could create additional and more efficient trading opportunities on the Exchange for investors with longer investment time horizons, including institutional investors,'' [10] so too will the M–ELO with PIO do so in that the M–ELO with PIO will offer M–ELO investors increased flexibility and efficiency in achieving their investment outcomes as well as new opportunities for price improvement. Moreover, just as the Commission determined that the M–ELO is ''reasonably designed to enhance midpoint execution quality on the Exchange'' notwithstanding the fact that M–ELO allows market participants to elect not to execute against certain contra-side interest,[11] the Exchange believes that M–ELO with PIO is reasonably designed in that the additional condition that a M–ELO with PIO imposes on a M–ELO execution—the midpoint of the NBBO must provide price improvement as measured against the limit price that the participant designates—is not unfair.[12] Like the M–ELO, the M–ELO with PIO is equitable insofar as it will be available to all Nasdaq members. In sum, the Exchange believes that the M–ELO with PIO, like the M–ELO ''represents a reasonable effort to enhance the ability of longer-term trading interest to participate effectively on an exchange, without discriminating unfairly against other market participants or inappropriately or unnecessarily burdening competition.'' [13]

The Exchange also believes that its proposal is consistent with Regulation National Market System Rule 612, which provides that ''[n]o national securities exchange, national securities association, alternative trading system, vendor, or broker or dealer shall display, rank, or accept from any person a bid or offer, an order, or an indication of interest in any NMS stock priced in an increment smaller than $0.01 if that bid or offer, order, or indication of interest is priced equal to or greater than $1.00 per share.'' [14] The Exchange believes that its proposal is consistent with Rule 612 because a M–ELO with PIO is a non-displayed order that the Exchange does not accept or rank at a sub-penny increment. Although a M–ELO with PIO guarantees at least a half-penny of price improvement relative to a member's designated limit price, the Exchange does not believe that this feature should be construed as the Exchange accepting a M–ELO with a price that is implicitly a half-penny below the limit price. The ability to execute a M–ELO with PIO and the extent of the price improvement it ultimately provides depends upon variables that include the movement of the midpoint of the NBBO relative to the limit price and the spread of the NBBO. At the time that a member enters a M–ELO with PIO, neither the member nor the Exchange knows whether or at what price the order will execute at the conclusion of the Holding Period. Even if a member is amenable to or specifically intends for a M–ELO with PIO to execute at a half-penny below the limit price, this outcome is not assured and it is out of the member's control. The order may not execute at all or, if it does so, it may provide the member with price improvement of a full penny or more. Because the ultimate terms of a M–ELO with PIO are unknowable at the time of acceptance and because a sub-penny execution price is only one of a range of possible outcomes for a M–ELO with PIO, a M–ELO with PIO should be deemed to be consistent with Rule 612.

Moreover, the Exchange notes that the Commission itself stated expressly, when it first adopted Rule 612, that the Rule does not prohibit midpoint orders or price improvement orders that merely result in sub-penny executions:

Rule 612 will not prohibit a sub-penny execution resulting from a midpoint or volume-weighted algorithm or from price improvement, so long as the execution did not result from an impermissible sub-penny order or quotation. The Commission believes at this time that trading in sub-penny increments does not raise the same concerns as sub-penny quoting. Sub-penny executions do not cause quote flickering and do not decrease depth at the inside quotation. Nor do they require the same systems capacity as would sub-penny quoting. In addition, sub-penny executions due to price improvement are generally beneficial to retail investors.[15]

The Exchange does not believe that a M–ELO with PIO that executes at a sub-penny price would implicate any of the concerns that underlie Rule 612. For example, it would not cause quote flickering because a M–ELO with PIO is hidden and, by definition, it does not affect displayed quotes. Also, the Exchange does not expect that the addition of PIO would cause widespread system capacity issues that the Commission feared would result from sub-penny quoting. The Exchange notes that the universe of M–ELOs and M–ELO PIOs is limited because these orders will interact only with each other and not with the broader population of orders.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release No. 34–82825, *supra,* 83 FR at 10938–41.

[10] *See id.* at 10938–39.

[11] *See id.* at 10939.

[12] As the Commission noted in its order approving M–ELO, the minimum quantity and post-only order functionalities that the Exchange offers provide for similar conditionality. *See id. See also* SR–NASDAQ–2017–074 Amendment No. 2, at 19 (Oct. 30, 2017) (citing similarity between M–ELO and the Nasdaq BX Retail Price Improvement order type, which, as described in BX Rule 4702(b), is an order type that executes only against a retail order and only if its price is at least $0.001 better than the NBBO).

[13] Securities Exchange Act Release No. 34–82825, *supra,* 83 FR at 10940.

[14] 17 CFR 242.612.

[15] Securities Exchange Act Release No. 34–51808 (Jun. 9, 2005), 70 FR 37496, 37556 (Jun. 29, 2005).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the addition of the Price Improvement Only variation will only boost the attractiveness of the M–ELO among market participants who desire or require additional trading flexibility for the M–ELO as well as those that seek additional opportunities for price improvement. Accordingly, the Exchange expects that its proposal will draw new market participants to Nasdaq and increase the extent to which existing participants utilize M–ELO. To the extent the proposed change is successful in attracting additional market participants, Nasdaq believes that the proposed change will promote competition among trading venues by making Nasdaq a more attractive trading venue for long-term investors and therefore capital formation.

In any event, the Exchange notes that it operates in a highly competitive market in which market participants can readily choose between competing venues if they deem participation in Nasdaq's market is no longer desirable. In such an environment, the Exchange must carefully consider the impact that any change it proposes may have on its participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the incentives and structure of their markets, the Exchange believes that the degree to which modifying the market structure of an individual market may impose any burden on competition is limited.

The Exchange also does not believe that its proposal will impose an undue burden on intramarket competition. Just as with an ordinary M–ELOs [sic], the M–ELO with PIO will be available to all Nasdaq members and it will be available on an optional basis. Thus, any member that seeks to avail itself of the benefits of a M–ELO with PIO or avoid its costs can choose accordingly. Although the proposal provides flexibility and price improvement opportunities specifically for investors that select the M–ELO order type, the Exchange believes that all market participants will benefit to the extent that this proposal contributes to a healthy and attractive market that is attentive to the needs of all types of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2018–038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–038 and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10973 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83280; File No. SR–MRX–2018–08]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce the ATR Protection for Orders That Are Routed to Away Markets

May 17, 2018.

I. Introduction

On February 23, 2018, Nasdaq MRX, LLC (''MRX'' or ''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 Exchange Rule 714 regarding the Acceptable Trade Range (''ATR'') functionality for orders that are routed to away markets. The proposed rule change was published for comment in the **Federal Register** on March 14, 2018.[3] On April 23, 2018, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82848 (March 9, 2018), 83 FR 11276 (''Notice'').

entirety.[4] On April 26, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to June 22, 2018.[5] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1[6]

The ATR is a functionality designed to prevent the Exchange's System[7] from experiencing dramatic price swings by preventing the execution of orders beyond set thresholds.[8] Pursuant to Exchange Rule 714(b)(1), the System calculates an ATR to limit the range of prices at which an order or quote will be allowed to execute.[9] Upon receipt of a new order or quote, the ATR is calculated by taking the reference price, plus or minus a value to be determined by the Exchange, where the reference price is the NBB for sell orders/quotes and the NBO for buy orders/quotes.[10] Accordingly, the ATR is: The reference price − (x) for sell orders/quotes; and the reference price + (x) for buy orders.[11] If an order or quote reaches the outer limit of the ATR without being fully executed, then any unexecuted balance will be cancelled.[12]

The Exchange states that, currently, the System calculates a reference price for an incoming order or quote only when that order or quote rests or trades on the regular order book.[13] Accordingly, orders that route to away exchanges do not always receive the ATR. Orders that first trade on the Exchange prior to being routed away receive the ATR, but orders that are routed away upon entry (or otherwise do not rest or trade on the regular order book) are not currently subject to the ATR.[14]

The Exchange now proposes to amend the ATR to modify how it applies to orders that are routed by the Exchange. First, the Exchange proposes to apply the ATR to orders that are routed to away markets without first trading on the Exchange.[15] This means that, unlike today, the System will calculate an ATR for orders even if the order does not rest or trade on the regular order book prior to being routed.[16]

In addition, the Exchange proposes that, for orders routed to away markets pursuant to the Supplementary Material to Exchange Rule 1901,[17] if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR would be calculated based on the reference price at that time.[18] The Exchange notes that the NBB or NBO price for a security may change during the ''Flash'' auction process described in Supplementary Material .02 to Rule 1901, and the proposed rule change would provide additional protection if the reference price was improved at the time the order is routed.[19] Similarly, the Exchange represents that other routable orders not subject to the ''Flash'' auction process must still be processed by the System prior to routing, and during this processing time the market may have moved.[20] Under the proposed rule change, if the NBB or NBO price has not improved at the time an order is routed, the ATR that was applied to the order upon entry into the System would apply.[21]

The Exchange states that it intends to implement the ATR functionality described in the proposed rule change no later than October 31, 2018.[22]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[24] 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 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 Commission believes that the ATR is reasonably designed to prevent executions of orders and quotes at

[4] *See* Letter to Brent J. Fields, Secretary, Commission, from Adrian Griffiths, Senior Associate General Counsel, Nasdaq, Inc., dated April 23, 2018 (''Amendment No. 1''). Amendment No. 1 revises the proposed rule change to: (i) Provide further discussion of the current application of the ATR to orders routed away; (ii) modify the proposed rule text regarding the recalculation of the ATR for orders routed away pursuant to Supplementary Material to Exchange Rule 1901, if the applicable National Best Bid (''NBB'') or the National Best Offer (''NBO'') price is improved at the time of routing; (iii) expand the discussion and justification for recalculating the ATR for such orders; and (iv) make other amendments to the proposed rule text to improve the understandability of the current ATR calculation. Amendment No. 1 was also submitted as a comment to the proposed rule change. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-mrx-2018-08/mrx201808-3492392-162259.pdf.*

[5] *See* Securities Exchange Act Release No. 83116 (April 26, 2018), 83 FR 19369 (May 2, 2018).

[6] For a more detailed description of the proposal, *see* Notice, *supra* note 3; Amendment No. 1, *supra* note 4.

[7] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Exchange Rule 100(a)(55).

[8] *See* Amendment No. 1, *supra* note 4.

[9] *See* Exchange Rule 714(b)(1).

[10] *See* Notice, *supra* note 3, at 11276. For purposes of determining the value that will be added or subtracted from the reference price, there are three categories of options for the ATR: (1) Penny Pilot Options trading in one cent increments for options trading at less than $3.00 and increments of five cents for options trading at $3.00 or more, (2) Penny Pilot Options trading in one-cent increments for all prices, and (3) Non-Penny Pilot Options. *See id.*

[11] *See* Exchange Rule 714(b)(1)(i).

[12] *See* Exchange Rule 714(b)(1)(ii). The ATR is not available for All-or-None Orders. *See* Notice, *supra* note 3, at 11276, n.3.

[13] *See* Notice, *supra* note 3, at 11276.

[14] *See* Amendment No. 1, *supra* note 4.

[15] *See* Notice, *supra* note 3, at 11276.

[16] *See* Amendment No. 1, *supra* note 4.

[17] This could occur: (1) if an order is routed to an away market pursuant to Supplementary Material .02 to Rule 1901 (the ''Flash'' auction) without first trading against any Exchange interest in the ''Flash'' auction; (2) if an order is a ''Sweep Order'' as defined in Rule 715(s) and processed pursuant to Supplementary Material .05 to Rule 1901 instead of the ''Flash'' auction; or (3) if a Non-Customer Order opts out of the ''Flash'' auction and is processed pursuant to Supplementary Material .04 to Rule 1901. *See* Amendment No. 1, *supra* note 4.

Supplementary Material .02 to Rule 1901 provides that orders to be routed to away markets may be eligible for a ''Flash'' auction wherein Exchange members are allowed the opportunity to enter responses to trade with the order prior to routing. *See* Notice, *supra* note 3, at 11276.

[18] *See* Amendment No. 1, *supra* note 4; proposed Exchange Rule 714(b)(1)(ii). In the Notice, the Exchange provides examples of how the ATR will be applied to orders routed to away markets. *See* Notice, *supra* note 3, at 11276–77.

[19] *See* Amendment No. 1, *supra* note 4.

[20] *See* Amendment No. 1, *supra* note 4.

[21] The Exchange states that the ATR is not again recalculated for orders after routing, so orders that are routed but not executed in full by an away market, and subsequently return to trade on the Exchange, would not receive a new ATR. *See* Amendment No. 1, *supra* note 4.

[22] *See* Notice, *supra* note 3, at 11277. The Exchange further states that it will announce the implementation date of this functionality in an Options Trader Alert prior to the launch date. *See id.*

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

prices that are significantly worse than the NBBO at the time of an order's submission and may reduce the potential negative impacts of unanticipated volatility in individual options.[25] The Commission notes that the proposed rule change extends the application of the ATR to orders that route away immediately upon entry, thus offering these orders the same protections that the ATR provides to orders that first trade on the Exchange before being routed. The Commission also believes that recalculating the ATR for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, should help provide such orders with a price protection that better reflects the NBB or NBO. The Commission further believes that the proposed rule change will provide transparency and enhance investors' understanding of the operation of the ATR. The Commission notes that the Exchange will continue to use the NBB or NBO as the reference price for the ATR. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

III. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Exchange 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–MRX–2018–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2018–08 and should be submitted on or before June 13, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 adds detail to the proposal and the proposed rule text regarding the operation of the ATR. Amendment No. 1 revises the proposed rule text to specify that for orders routed to away markets pursuant to the Supplementary Material to Rule 1901, if the applicable NBB or NBO price is improved at the time the order is routed, a new ATR will be calculated based on the reference price at that time. Amendment No. 1 also sets forth additional justification for the proposed rule change. The Commission believes that these revisions provide greater clarity with respect to the current and proposed application of the ATR for routed away orders. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[26] to approve the proposed rule change, as modified by Amendment No. 1 on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[27] that the proposed rule change (SR–MRX–2018–08), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10980 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[25] *See* Securities Exchange Act Release No. 81204 (July 25, 2017), 82 FR 35557, 35559–60 (July 31, 2017) (SR–MRX–2017–02) (Order approving, among other things, proposal to establish ATR).

[26] 15 U.S.C. 78s(b)(2).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83268; File No. SR–NYSEArca–2018–34]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

May 17, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 9, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to introduce a new pricing tier, Retail Order Step-Up Tier. The Exchange proposes to implement the fee change effective May 9, 2018.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on May 1, 2018 (SR–NYSEArca–2018–30) and withdrew such filing on May 9, 2018.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule, as described below, to introduce a new pricing tier, Retail Order Step-Up Tier.

The Exchange currently provides a credit of $0.0033 per share under the Retail Order Tier for Retail Orders [5] that provide liquidity during the month in Tape A, Tape B and Tape C Securities to ETP Holders, including Market Makers, that execute an average daily volume (''ADV'') of Retail Orders that provide liquidity during the month that is 0.15% or more of U.S. consolidated ADV (''CADV'').[6] For all other fees and credits, tiered or basic rates apply based on a firm's qualifying levels. In order to encourage participation from a greater number of ETP Holders, and promote additional liquidity in Retail Orders, the Exchange proposes to introduce a new pricing tier, Retail Order Step-Up Tier.

As proposed, a new Retail Order Step-Up Tier credit of $0.0033 per share for Retail Orders that provide liquidity during the month in Tape A, Tape B and Tape C Securities would apply to ETP Holders, including Market Makers, that execute an ADV of Retail Orders with a time-in-force designation of Day that add or remove liquidity during the month that is an increase of 0.12% or more of the U.S. CADV above their April 2018 ADV taken as a percentage of U.S. CADV. Retail Orders with a time-in-force designation of Day that remove liquidity from the Book will not be charged a fee. For all other fees and credits, tiered or basic rates apply based on a firm's qualifying levels.

For example, assume an ETP Holder averages 1 million shares in Retail Orders with a time-in-force designation of Day that add or remove liquidity per day in April, or 0.015% of U.S. CADV, where U.S. CADV was 6.6 billion shares.

If that ETP holder then averages 9 million shares in Retail Orders with a time-in-force designation of Day that add or remove liquidity in the billing month, or 0.136% of U.S. CADV, where U.S. CADV was also 6.6 billion shares, that ETP Holder would qualify for the Retail Order Step-Up Tier because it would have met the requirement of the proposed new pricing tier, *i.e.,* an increase of at least 0.12% of the U.S. CADV over the ETP Holder's April 2018 ADV taken as a percentage of U.S. CADV, or 0.121% (0.136% in the billing month over 0.015% in the baseline month).

Also assume that same ETP holder averages 5 million shares in Retail Order that remove liquidity in Tape A Securities, of which 1 million shares are in Retail Orders with a time-in-force designation of Day. As a result, the 4 million shares in Retail Orders that remove liquidity would be subject to the Tape A fee for removing liquidity of $0.0030 per share while the 1 million shares in Retail Orders with a time-in-force designation of Day would not be charged a fee.

Further assume that the same ETP Holder qualified for both the Cross-Asset Tier 3 credit of $0.0030 per share and the Tape C incremental credit of $0.0004 per share and receive a combined credit for adding liquidity in Tape C of $0.0034. Since the combined Cross-Asset Tier and Tape C Tier credit is higher than the proposed Retail Order Step-Up Tier, the ETP holder would receive the higher credit of $0.0034 per share instead of the Retail Order Step-Up Tier credit of $0.0033 per share.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes it is reasonable to add the new Retail Order Step-Up Tier because the Exchange believes it would encourage participation from a greater number of ETP Holders, which would promote additional liquidity in Retail Orders. In this regard, an ETP Holder that does not qualify for the proposed higher credit could still be eligible for a credit for its Retail Orders that provide liquidity under the current Retail Order Tier or under Basic Rates. The proposed new Retail Order Step-Up Tier would create an added financial incentive for ETP Holders to bring additional retail flow to a public market. The proposed new credit is also reasonable because it would reduce the costs of ETP Holders that represent retail flow and potentially also reduce costs to their customers.

The Exchange believes that it is reasonable that only Retail Orders with a time-in-force designation of Day that add or remove liquidity would count toward qualifying for the Retail Order Step-Up Tier. This would largely result in the type of orders to which the corresponding credit applies being the same as the volume that counts toward qualification—*i.e.,* only Retail Orders with a time-in-force designation of Day. The Exchange believes that the proposed threshold of 0.12% or more of CADV above the ETP Holder's April 2018 ADV taken as a percentage of U.S. CADV is reasonable because it is within a range that the Exchange believes would continue to incentivize ETP Holders to submit Retail Orders to the Exchange in order to qualify for the proposed credit.

The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. This aspect of the proposed

[5] A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR–NYSEArca–2012–77).

[6] U.S. CADV means United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in U.S. CADV.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

rule change also is consistent with the Act because all similarly situated ETP Holders would pay the same rate, as is currently the case, and because all ETP Holders would be eligible to qualify for the rates by satisfying the related threshold, where applicable. Furthermore, the submission of Retail Orders is optional for ETP Holders, in that an ETP Holder could choose whether to submit Retail Orders and, if it does, the extent of its activity in this regard.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed rule change is consistent with the Act because it strikes an appropriate balance between fees and credits, which will encourage submission of orders to the Exchange, thereby promoting competition.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–NYSEArca–2018–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2018–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–34, and should be submitted on or before June 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10969 Filed 5–22–18; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

The following form has been submitted to the Office of Management and Budget (OMB) for extension of clearance with change in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS Form 1

Title: The Selective Service System Registration Form.

Purpose: Is used to register men and establish a data base for use in identifying manpower to the military services during a national emergency.

Respondents: All 18-year-old males who are United States citizens and those male immigrants residing in the United States at the time of their 18th birthday are required to register with the Selective Service System.

Frequency: Registration with the Selective Service System is a one-time occurrence.

Burden: A burden of two minutes or less on the individual respondent.

Change: Collecting telephone numbers from respondents.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance with change of the form should be sent within 60 days of the publication of this notice to the Selective Service System, Operations Directorate, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: May 17, 2018.

Donald M. Benton,

Director.

[FR Doc. 2018–11066 Filed 5–22–18; 8:45 am]

BILLING CODE 8015–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2018–0001]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the United States Department of Health and Human Services (HHS), Office of Child Support Enforcement (OCSE).

Under this matching program, OCSE will provide SSA the quarterly wage and unemployment insurance information from the National Directory of New Hires (NDNH) for administration of Title II Disability Insurance (DI). The computer matching agreement governs the use, treatment, and safeguarding of the information exchanged.

SSA will use the quarterly wage information to establish or verify eligibility, continuing entitlement, or payment amounts, or all of the above, of individuals under the DI program. SSA will use the unemployment insurance information to establish or verify eligibility, continuing entitlement, or payment amounts, or all of the above, of individuals under the DI program if SSA is legally required to use the unemployment insurance information for such purposes.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication in the **Federal Register**. The matching program will be applicable on June 17, 2018 and will expire on December 18, 2019, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above.

SUPPLEMENTARY INFORMATION: None.

Mary Ann Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

PARTICIPATING AGENCIES

SSA and HHS, OCSE

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authorities for disclosures under this agreement are:

Section 453(j)(4) of the Social Security Act (Act) provides that OCSE shall provide the Commissioner of Social Security with all information in the NDNH.

1. 42 U.S.C. 653(j)(4).

2. Section 224(h)(1) of the Act provides that the head of any Federal agency shall provide information within its possession as the Commissioner of Social Security may require for purposes of making a timely determination of the amount of the reduction, if any, required by section 224 in benefits payable under Title II of the Act. 42 U.S.C. 424a(h).

PURPOSE(S):

This computer matching agreement, hereinafter ''agreement,'' governs a matching program between OCSE and SSA. OCSE will provide SSA the quarterly wage and unemployment insurance information from the NDNH for administration of Title II DI. This agreement governs the use, treatment, and safeguarding of the information exchanged.

SSA will use the quarterly wage information to establish or verify eligibility, continuing entitlement, or payment amounts, or all of the above, of individuals under the DI program. SSA will use the unemployment insurance information to establish or verify eligibility, continuing entitlement, or payment amounts, or all of the above, of individuals under the DI program if SSA is legally required to use the unemployment insurance information for such purposes.

CATEGORIES OF INDIVIDUALS:

The individuals whose information is involved in this matching program are individuals who are applicants or beneficiaries under the DI program, whose records may be maintained in the NDNH as quarterly wage and unemployment insurance information.

CATEGORIES OF RECORDS:

SSA will provide electronically to OCSE the following data elements in the finder file:

- Individual's Social Security number (SSN)
- Name (first, middle, last)

OCSE will provide electronically to SSA the following data elements from the NDNH in the quarterly wage file:

- Quarterly wage record identifier
- For employees:

(1) Name (first, middle, last)
(2) SSN
(3) Verification request code
(4) Processed date
(5) Non-verifiable indicator
(6) Wage amount
(7) Reporting period

- For employers of individuals in the quarterly wage file of the NDNH:

(1) Name (first, middle, last)
(2) Employer identification number
(3) Address(es)

- Transmitter agency code
- Transmitter state code
- State or agency name

OCSE will provide electronically to SSA the following data elements from the NDNH in the unemployment insurance file if SSA is legally required to use such information for the purposes set forth in the agreement:

- Unemployment insurance record identifier
- Processed date
- SSN
- Verification request code
- Name (first, middle, last)
- Address
- Unemployment insurance benefit amount
- Reporting period
- Transmitter agency code
- Transmitter state code
- State or agency name

SYSTEM(S) OF RECORDS:

SSA and OCSE published notice of the relevant systems of records (SOR)s in the **Federal Register**. SSA's SORs are the Master Beneficiary Record (MBR), 60–0090 last fully published January 11, 2006 at 71 FR 1826, amended on December 10, 2007 at 72 FR 69723, and amended on July 5, 2013 at 78 FR 40542; and the Completed Determination Record-Continuing Disability Determination file (CDR–CDD), 60–0050 last fully published January 11, 2006 at 71 FR 1813 and amended on December 10, 2007 at 72 FR 69723.

OCSE will match SSA information in the MBR and CDR–CDD against the quarterly wage and unemployment insurance information maintained in the NDNH. The NDNH contains new hire, quarterly wage, and unemployment insurance information furnished by state and federal agencies and is maintained by OCSE in its system of records ''OCSE National Directory of New Hires,'' No. 09–80–0381, published in the **Federal Register** at 80 FR 17906 on April 2, 2015. The disclosure of NDNH information by OCSE to SSA constitutes a ''routine use,'' as defined by the Privacy Act. 5 U.S.C. 552a(b)(3). Routine use (9) of the system of records authorizes the disclosure of NDNH information to SSA for this purpose. 80 FR 17906, 17907 (April 2, 2015).

[FR Doc. 2018–10988 Filed 5–22–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 10412]

E.O. 13224 Designation of ISIS in the Greater Sahara (ISIS–GS), aka Islamic State in the Greater Sahara (ISGS), aka Islamic State of the Greater Sahel, aka ISIS in the Greater Sahel, aka ISIS in the Islamic Sahel, as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as ISIS in the Greater Sahara (ISIS–GS), also known as Islamic State in the Greater Sahara (ISGS), also known as Islamic State of the Greater Sahel, also known as ISIS in the Greater Sahel, also known as ISIS in the Islamic Sahel, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States. Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

John J. Sullivan,

Deputy Secretary of State.

[FR Doc. 2018–11010 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 10411]

In the Matter of the Designation of ISIS in the Greater Sahara (ISIS–GS) Also Known as Islamic State in the Greater Sahara (ISGS) Also Known as Islamic State of the Greater Sahel Also Known as ISIS in the Greater Sahel Also Known as ISIS in the Islamic Sahel as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA''), exist with respect to ISIS in the Greater Sahara (ISIS–GS), also known as Islamic State in the Greater Sahara (ISGS), also known as Islamic State of the Greater Sahel, also known as ISIS in the Greater Sahel, also known as ISIS in the Islamic Sahel.

Therefore, I hereby designate the aforementioned organization and its aliases as a foreign terrorist organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

John J. Sullivan,

Deputy Secretary of State.

[FR Doc. 2018–11007 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 10424]

Notice of Renewal of the Advisory Committee on International Law

Charter

The Department of State has renewed the charter of the Advisory Committee on International Law. The Committee is composed of former Legal Advisers of the Department of State and up to 30 individuals appointed by the Legal Adviser or a Deputy Legal Adviser. Through the Committee, the Department of State will continue to obtain the views and advice of outstanding members drawn from a cross section of the legal profession. The Committee follows procedures prescribed by the Federal Advisory Committee Act (FACA). Its meetings are open to the public unless a determination is made in accordance with the FACA and 5 U.S.C. 552b(c) that a meeting or portion

of a meeting should be closed to the public. Notice of each meeting will be published in the **Federal Register** at least 15 days prior to the meeting, unless extraordinary circumstances require shorter notice. For further information, please contact Brian Kelly, Executive Director, Advisory Committee on International Law, Department of State, at 202–647–0359 or *kellybm@state.gov.*

Brian M. Kelly,

Attorney-Adviser, Office of the Legal Adviser, Department of State.

[FR Doc. 2018–10948 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 10421]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Georg Baselitz: Six Decades'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Georg Baselitz: Six Decades,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Hirshhorn Museum and Sculpture Garden, Smithsonian Institution, Washington, District of Columbia, from on or about June 21, 2018, until on or about September 16, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–11004 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10426]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: ''Thomas Bayrle: Playtime'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition ''Thomas Bayrle: Playtime,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the New Museum, New York, New York, from on or about June 20, 2018, until on or about September 2, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–11005 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10428]

Determination and Certification Under Section 40A of the Arms Export Control Act

Pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781), and Executive Order 13637, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts: Eritrea Iran Democratic People's Republic of Korea (DPRK, or North Korea) Syria, Venezuela.

This determination and certification shall be transmitted to the Congress and published in the **Federal Register**.

Dated: May 5, 2018.

Michael Pompeo,

Secretary of State.

[FR Doc. 2018–11065 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 10413]

E.O. 13224 Designation of Adnan Abu Walid al-Sahrawi, aka Abu Walid al Sahrawi, aka Adnan Abu Walid al-Sahraoui, aka Adnan Abu Waleed al-Sahrawi, aka Lehbib Ould Ali Ould Said Ould Joumani, as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Adnan Abu Walid al-Sahrawi, also known as Abu Walid al Sahrawi, also known as Adnan Abu Walid al-Sahraoui, also known as Adnan Abu Waleed al-Sahrawi, also known as Lehbib Ould Ali Ould Said Ould Joumani, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this

determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

John J. Sullivan,

Deputy Secretary of State.

[FR Doc. 2018–11011 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 10420]

Culturally Significant Objects Imported for Exhibition Determinations: "Fabergé Rediscovered" Exhibition; Notice of Determinations

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Fabergé Rediscovered,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Hillwood Estate, Museum & Gardens, Washington, District of Columbia, from on or about June 9, 2018, until on or about January 13, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–11003 Filed 5–22–18; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36173]

Alabama & Tennessee River Railway, LLC—Lease and Operation Exemption—HGS–ATN, LLC

Alabama & Tennessee River Railway (ATN), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to lease from HGS–ATN, LLC (HGS–ATN), and operate approximately 121 miles of rail lines located in Alabama (the Lines).[1] The Lines extend (1) from milepost SG 737.06, at or near Birmingham, to approximately milepost SG 673.43 at or near Wellington (Birmingham Subdivision); (2) from OAM 522.91 at or near Wellington to OAM 545.93 at or near Moragne (Gadsden Subdivision); (3) from milepost 114.81 at or near Moragne to AG 85.0, at or near Guntersville (Guntersville Subdivision); and (4) from milepost 0LE 447.89 at or near Moragne, to milepost 0LE 442.60 at or near Ivalee (Ivalee Spur), in Jefferson, St. Clair, Calhoun, Etowah, and Marshall Counties, Ala.

ATN states that in 2004 it entered into an agreement to lease the Lines from CSX Transportation, Inc. (CSXT). *See Ala. & Tenn. River Ry.—Lease & Operation Exemption—CSX Transp., Inc.,* FD 34611 (STB served Dec. 17, 2004). ATN further states that HGS–ATN will shortly enter into an agreement to acquire the Lines from CSXT.[2] As part of that transaction, CSXT will assign the ATN's lease of the Lines to HGS–ATN.

ATN certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. ATN further certifies that the annual projected revenue will exceed $5 million.[3] In a letter filed on March 28, 2018, supplementing its notice of exemption, ATN certifies that its lease agreement with HGS–ATN contains no provisions that may limit future interchange with a third-party connecting carrier.

ATN states that it expects to consummate this transaction on or shortly after the effective date of the exemption. The earliest this transaction may be consummated is June 6, 2018, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36173, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to ATN, this action is excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–11050 Filed 5–22–18; 8:45 am]

BILLING CODE 4915–01–P

[1] By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in *HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS–FCR, LLC & HGS–ATN, LLC,* Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the **Federal Register** today notices of the exemptions in all five dockets, thus removing them from abeyance.

[2] On March 29, 2018, HGS–ATN filed a verified notice of exemption to acquire the Lines from CSXT in *HGS–ATN, LLC—Acquisition Exemption—CSX Transportation, Inc.,* Docket No. FD 36175.

[3] On March 19, 2018, ATN certified to the Board that on, March 16, 2018, it posted notice of the transaction at the workplace of the employees on the Lines, and on March 19, 2018, it served a copy of the notice on the national office of the potentially affected employees' labor union as required under 49 CFR 1150.42(e). However, on March 22, 2018, ATN sought waiver of the 60-day notice requirements. Because the exemption will not become effective until June 6, 2018, ATN's request for waiver will be dismissed as moot.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36175]

HGS–ATN, LLC—Acquisition Exemption—CSX Transportation, Inc.

HGS–ATN, LLC (HGS–ATN), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from CSX Transportation, Inc. (CSXT) approximately 121 miles of rail line in Alabama (the Lines). The Lines extend (1) from milepost SG 737.06, at or near Birmingham, to approximately milepost SG 673.43 at or near Wellington (Birmingham Subdivision); (2) from OAM 552.91 at or near Wellington to OAM 545.93 at or near Moragne (Gadsden Subdivision); (3) from milepost AG114.81 at or near Moragne to AG 85.0, at or near

Guntersville (Guntersville Subdivision); and (4) from milepost 0LE 447.89 at or near Moragne, to milepost 0LE 442.60 at or near Ivalee (Ivalee Spur).[1]

According to HGS–ATN, it is acquiring the Lines from CSXT for continued rail operations. HGS–ATN states that it is in the process of entering into a Purchase and Sale Agreement with CSXT. HGS–ATN also states that it will lease the Lines to Alabama & Tennessee River Railway, which will be the operator of the property. *See* Ala. & Tenn. River Ry. Verified Notice of Exemption, Mar. 22, 2018, *Ala. & Tenn. River Ry., LLC—Lease & Operation Exemption— HGS–ATN, LLC,* Docket No. FD 36173.

HGS–ATN certifies that, as a result of the proposed transaction, its projected annual revenues will not result in its becoming a Class I or Class II rail carrier and will not exceed $5 million. HGS–ATN also certifies that the proposed transaction does not involve any interchange commitments.

The proposed transaction may be consummated on or after June 6, 2018, the effective date of this exemption. If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36175, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to HGS–ATN, this action is categorically excluded from environmental reporting under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–11052 Filed 5–22–18; 8:45 am]

BILLING CODE 4915–01–P

[1] By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in *HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS–FCR, LLC & HGS–ATN, LLC,* Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the **Federal Register** today notices of the exemptions in all five dockets, thus removing them from abeyance.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36180]

HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS–FCR, LLC and HGS–ATN, LLC

HGS Railway Holdings, Inc. (HGS Holdings), has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of HGS–ATN, LLC (HGS–ATN), and HGS–FCR, LLC (HGS–FCR) (collectively, the LLCs), upon HGS–ATN's and HGS–FCR's becoming Class III rail carriers.

This transaction is related to verified notices of exemption in *HGS–ATN, LLC—Acquisition Exemption—CSX Transportation, Inc.,* Docket No. FD 36175 and *HGS–FCR, LLC—Acquisition Exemption—CSX Transportation, Inc.,* Docket No. FD 36176. In those proceedings, the LLCs individually seek authority pursuant to 49 CFR 1150.31 to acquire rail lines from CSX Transportation, Inc. (CSXT): HGS–ATN for approximately 121 miles of rail line in Alabama, and HGS–FCR for approximately 55 miles of rail line in Georgia. The transaction is also related to verified notices of exemption in *Alabama & Tennessee River Railway—Lease & Operation Exemption—HGS–ATN, LLC,* Docket No. FD 36173, and *Fulton County Railway—Lease & Operation Exemption—HGS–FCR, LLC,* Docket No. FD 36174. In those proceedings, Alabama & Tennessee River Railway (ATN), and Fulton County Railway, LLC (FCR), seek authority to lease and operate over the Alabama and Georgia lines, respectively.[1]

The earliest this transaction may be consummated is June 6, 2018, the effective date of the exemption.

HGS Holdings is a non-carrier that owns 100 percent of the issued and outstanding stock of HGS–ATN and HGS–FCR, two limited liability companies and non-carriers that were formed for the purpose of acquiring certain lines from CSXT. OmniTrax Holdings Combined, Inc. (OmniTRAX), is a non-carrier that controls 18 Class III railroads.[2] HGS Holdings and OmniTRAX share the same address, chief executive officer, and additional officials or officers. Together, the two companies' holdings appear to encompass the entirety of the rail carriers in the corporate family.[3]

HGS Holdings represents that: (1) The rail lines to be owned by HGS–ATN are located in Alabama and the rail lines to be owned by HGS–FCR are located in Atlanta, Ga.; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operated by HGS–ATN, HGS–FCR, and the 18 railroads in the OmniTRAX family; and (3) there are no Class I rail carriers in the HGS Holdings/OmniTRAX corporate family. Moreover, the verified notice shows that the rail lines to be acquired by HGS–ATN and HGS–FCR do not connect with each other or with any railroads in the OmniTRAX family. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

[1] By decision served April 13, 2018, the Board held all five exemption proceedings in abeyance pending HGS Holdings' filing of supplemental information about its corporate family. On April 23, 2018, HGS Holdings filed a reply and revised notice of exemption. The information in that filing is sufficient for the Board to remove all five proceedings from abeyance and publish the notices.

[2] OmniTRAX controls the following railroads operating in the identified states: ATN (Alabama); FCR (Georgia); Brownsville & Rio Grande International Railway, LLC (Texas); Chicago Rail Link, LLC (Illinois); Georgia & Florida Railway, LLC (Georgia, Florida); Georgia Woodlands Railroad, LLC (Georgia); Great Western Railway of Colorado, LLC (Colorado); Illinois Railway, LLC (Illinois); Kettle Falls International Railway, LLC (Washington); Manufacturers' Junction Railway, LLC (Illinois); Nebraska, Kansas & Colorado Railway, LLC (Nebraska, Kansas, Colorado); Newburgh & South Shore Railroad, LLC (Ohio); Northern Ohio & Western Railway (Ohio); Panhandle Northern Railway, LLC (Texas); Peru Industrial Railroad, LLC (Illinois); Sand Springs Railway Company (Oklahoma); Stockton Terminal and Eastern Railroad (California); and Central Texas & Colorado River Railway, LLC (Texas).

[3] HGS Holdings concedes in its April 23, 2018 supplemental filing that it and OmniTRAX are under joint managerial and operational control because individuals who are officers or officials at both companies are able to direct the day-to-day operations of the railroad subsidiaries. HGS Holdings is reminded that common control can be established due to other factors as well, *e.g.,* common ownership. *See* 49 U.S.C. 11323(b), (c). To the extent that any additional rail carriers come under the control of an entity with an ownership interest in HGS Holdings or OmniTRAX, prior authorization by the Board could be required. *Id.*

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36180 must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–11054 Filed 5–22–18; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36174]

Fulton County Railway, LLC—Lease and Operation Exemption—HGS–FCR, LLC

Fulton County Railway, LLC (FCR), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to lease from HGS–FCR, LLC (HGS–FCR), and operate approximately 55 miles of rail lines located in Atlanta, Ga. (the Lines).[1] The Lines extend: (1) From milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) from milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) from V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94 at the southwest end of the line through the Fulco Industrial Park, including the track in the Fulco Yard and the appurtenant sidings, and industrial tracks.

FCR states that in 2004 it entered into an agreement to lease the Lines from CSX Transportation, Inc. (CSXT). *See Fulton Cty. Ry—Lease & Operation Exemption—CSX Transp., Inc.,* FD 34542 (STB served Oct. 14, 2004). It states that HGS–FCR will shortly enter into an agreement to acquire the Lines from CSXT.[2] As part of that transaction, CSXT will assign the lease of the Lines by FCR to HGS–FCR.

FCR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. FCR further certifies that the annual projected revenue will exceed $5 million.[3] In a letter filed on March 28, 2018, supplementing its notice of exemption, FCR certifies that its lease agreement with HGS–FCR contains no provisions that may limit future interchange with a third-party connecting carrier.

FCR states that it expects to consummate this transaction on or shortly after the effective date of the exemption. The earliest this transaction may be consummated is June 6, 2018, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36174, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to FCR, this action is excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–11051 Filed 5–22–18; 8:45 am]

BILLING CODE 4915–01–P

[1] By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in *HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS–FCR, LLC & HGS–ATN, LLC,* Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the **Federal Register** today notices of the exemptions in all five dockets, thus removing them from abeyance.

[2] On March 29, 2018, HGS–FCR filed a verified notice of exemption to acquire the Lines from CSXT in *HGS–FCR, LLC—Acquisition Exemption—CSX Transportation, Inc.,* Docket No. FD 36176.

[3] On March 19, 2018, FCR certified to the Board that on, March 16, 2018, it posted notice of the transaction at the workplace of the employees on the Lines, and on March 19, 2018, it served a copy of the notice on the national office of the potentially affected employees' labor union as required under 49 CFR 1150.42(e). However, on March 22, 2018, FCR sought waiver of the 60-day notice requirements. Because the exemption will not become effective until June 6, 2018, FCR's request for waiver will be dismissed as moot.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36176]

HGS–FCR, LLC—Acquisition Exemption—CSX Transportation, Inc.

HGS–FCR, LLC (HGS–FCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from CSX Transportation, Inc. (CSXT) approximately 55 miles of rail line in Atlanta, Ga. (the Lines), extending: (1) From milepost ANO 855.06, V.S. 3 + 30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196 + 31; (2) from milepost ANO 858.72, V.S. 196 + 31 northeasterly to milepost ANO 860.75, V.S. 304 + 70, at the northeast end of the line; and (3) from V.S. 196 + 31 = V.S. 0 + 00 southwesterly to V.S. 208 + 94 at the southwest end of the line through the Fulco Industrial Park, including the track in the Fulco Yard and the appurtenant sidings, and industrial tracks.[1]

According to HGS–FCR, it is acquiring the Lines from CSXT for continued rail operations. HGS–FCR states that it is in the process of entering into a Purchase and Sale Agreement with CSXT. HGS–FCR also states that it will lease the Lines to Fulton County Railway, LLC, which will be the operator of the property. *See* Fulton Cty Ry. Verified Notice of Exemption, Mar. 22, 2018, *Fulton Cty. Ry.—Lease & Operation Exemption—HGS–FCR, LLC,* Docket No. FD 36174.

HGS–FCR certifies that, as a result of the proposed transaction, its projected annual revenues will not result in its becoming a Class I or Class II rail carrier and will not exceed $5 million. HGS–FCR also certifies that the proposed

[1] By decision served April 13, 2018, the Board held this and four related exemption proceedings in abeyance pending the filing of supplemental information in *HGS Railway Holdings, Inc.—Continuance in Control Exemption—HGS–FCR, LLC & HGS–ATN, LLC,* Docket No. FD 36180. On April 23, 2018, HGS Railway Holdings, Inc. filed a reply and revised notice of exemption in that docket. The Board is serving and publishing in the **Federal Register** today notices of the exemptions in all five dockets, thus removing them from abeyance.

transaction does not involve any interchange commitments.

The proposed transaction may be consummated on or after June 6, 2018, the effective date of this exemption. If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by May 30, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36176, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Karl Morell, Karl Morell & Associates, 440 1st Street NW, Suite 440, Washington, DC 20001.

According to HGS–FCR, this action is categorically excluded from environmental reporting under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 18, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–11053 Filed 5–22–18; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Request To Release Surplus Property at the Greenwood County Airport, Greenwood, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comment.

SUMMARY: Notice is being given that the Federal Aviation Administration (FAA) is considering a request from Greenwood County to waive the requirement that 13.254 acres of surplus property located at the Greenwood County Airport be used for aeronautical purposes. Currently, the ownership of the property provides for the protection of FAR Part 77 surfaces and compatible land use which would continue to be protected with deed restrictions required in the transfer of land ownership.

DATES: Comments must be received on or before June 22, 2018.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Rob Rau, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Toby Chappell, County Manager, Greenwood County, Park Plaza 102, 600 Monument Street, Box P–103, Greenwood, SC 29646.

FOR FURTHER INFORMATION CONTACT: Rob Rau, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337, *robert.rau@faa.gov.* The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request to release 13.254 acres of surplus property at the Greenwood County Airport (GRD) under the provisions of 49 U.S.C. 47151(d).

On May 2, 2018, Greenwood County requested the FAA release of 13.254 acres of surplus property for commercial/industrial development. The FAA has determined that the proposed property release at Greenwood County Airport (GRD), as submitted by Greenwood County, meets the procedural requirements of the Federal Aviation Administration and release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for aviation facilities at the Greenwood County Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Greenwood County Airport.

Issued in Atlanta, GA, on May 16, 2018.

Aimee McCormick,

Acting Manager, Atlanta Airports District Office.

[FR Doc. 2018–10953 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Myrtle Beach International Airport, Myrtle Beach, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comment.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at Myrtle Beach International Airport, Myrtle Beach, SC.

DATES: Comments must be received on or before June 22, 2018.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Aimee McCormick, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Kirk Lovell, Director of Air Service and Business Development, Horry County Department of Airports, 1100 Jetport Rd., Myrtle Beach, SC 29577.

FOR FURTHER INFORMATION CONTACT: Aimee McCormick, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337, *aimee.mccormick@faa.gov.* The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release 17.5 acres of airport property at Myrtle Beach International Airport (MYR) under the provisions of 49 U.S.C. 47107(h)(2).

On February 2, 2018, the Horry County Department of Airports requested the FAA release of 17.5 acres of property for sale to the Veteran's Administration (VA) for development and use of a medical facility with no overnight patient bed services.) FAA has determined that the proposed property release at Myrtle Beach International Airport (MYR), as submitted by Horry County Department of Airports, meets the procedural requirements of the Federal Aviation Administration and

release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The following is a brief overview of the request:

Myrtle Beach International Airport (MYR) is proposing the release of airport property totaling 17.5 acres to be developed and used for a medical facility with no overnight patient bed services. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at Myrtle Beach International Airport (MYR) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for aviation facilities at Myrtle Beach International Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at Myrtle Beach International Airport.

Issued in Atlanta, GA, on May 16, 2018.

Aimee McCormick,

Acting Manager, Atlanta Airports District Office.

[FR Doc. 2018–10954 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2018–0019]

Agency Information Collection Activities: Request for Comments for the Renewal of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 28, 2018. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by June 22, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA 2018–0013, by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Julie Johnston, Office of Program Administration, 202–591–5858, *Julie.johnston@dot.gov,* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Value Engineering Call for Data.

Background: Value Engineering (VE) is defined as a systematic process of review and analysis of a project, during the concept and design phases, by a multidiscipline team of persons not involved in the project, that is conducted to provide recommendations for providing the needed functions safely, reliably, efficiently, and at the lowest overall cost; improving the value and quality of the project; and reducing the time to complete the project. Applicable projects requiring a VE analysis include Projects on the National Highway System (NHS) receiving Federal assistance with an estimated total cost of $50,000,000 or more; Bridge projects on the NHS receiving Federal assistance with an estimated total cost of $40,000,000 or more; any major project, as defined in 23 U.S.C. 106(h), located on or off the NHS, that utilizes Federal-aid highway funding in any contract or phase; and other projects as defined in 23 CFR 627.5. 23 U.S.C. 106(e)(4)(iv) and 23 CFR 627.7(3) require States to monitor, evaluates and annually submit a report that describes the results of the value analyses that are conducted and the recommendations implemented on applicable projects. The FHWA will submit a National Call for VE Data in order to monitor and assess the VE Program and meet the requirements of 23 U.S.C. 106(h).

Respondents: 52.

Frequency: Once per year.

Estimated Average Burden per Response: Approximately 2 hours per participant over a year.

Estimated Total Annual Burden Hours: Approximately 104 hours per year.

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 FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 16, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–11021 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2018–0029]

Agency Information Collection Activities: Request for Comments for the Renewal of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of

1995, this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 28, 2017. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by June 22, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID FHWA 2018–0029 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James March, 202–366–9237, or William Linde, 202–366–9637, Office of Transportation Policy Studies, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Using Behavioral Economics to Better Understand Managed Lane Use.

Background: The Exploratory Advanced Research (EAR) Program is administered by the Federal Highway Administration (FHWA) and intends to spur innovation by focusing on higher risk research. A research project awarded under the EAR program will use experiments with behavioral economics (BE) to improve models used to predict travelers' use of priced managed lanes (MLs). The research will recruit participants who currently travel on freeways with MLs. Based on prior research, travelers either make a pre-determined decision or consciously choose between taking and not taking the ML trip. Selected research participants will undergo laboratory-based BE tests to examine the personal decision-making process used to select or not select the ML trip. The laboratory-based tests will incorporate an initial survey of participants and the use of a driving simulator. The tests will also examine whether behavior can charge given stimuli. Follow-up field trials will attempt to generalize the results from the BE simulator experiments for use in real-world settings. The field trials will investigate the impact of how the communication of travel information will influence travelers' lane choice. The results from the research will potentially form a new model for estimating travelers' lane choice behavior, if findings show a deviation of practice from traditional estimates of ML use.

Respondents: Approximately 24,000 respondents will be engaged at the beginning of the project. The later tasks will require 240 respondents, with half from the Washington, DC metropolitan region and the other half from the Dallas/Fort Worth, TX metropolitan region. Approximately 400 student respondents will be surveyed to help refine the survey instrument.

Frequency: Approximately 24,000 potential participants will complete a short survey at to gauge interest for later research activities. Approximately 400 students will complete at least one survey collection and one in-person computer-based test. The 240-person respondent pool will complete at least one survey collection and one in-person computer-based test. An approximate subset of 40 participants from the 240-person respondent pool will participate in a second simulator test to help pre-test the methodology for the latter field trials. An approximate subset of 120 participants from the 240-person respondent pool will participate in the field test.

Estimated Average Burden per Response: The 24,000-person respondent pool will need 5 minutes to compete the initial survey. The 400-person student group will need 3 hours to complete the survey and in-person computer-based test. The 240-person respondent pool will need 3 hours to complete the survey and in-person computer-based test. The 40-person subset from the 240-person respondent pool will need 2 hours to complete a driving simulator study. The 120-person subset from the 240-person respondent pool will need 45 minutes to partake in the field test.

Estimated Total Annual Burden Hours: Approximately 2,000 hours to complete the initial 5-minute survey. Approximately 2,790 hours to complete all the other later activities.

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 FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 16, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–11020 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0083]

Request for Comments on the Renewal of a Previously Approved Information Collection: Application for Construction Reserve Fund and Annual Statements (CRF)

AGENCY: Maritime Administration

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information to be collected is required in order for MARAD to determine whether the applicant is qualified for the benefits of the CRF program. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on February 12, 2018 (**Federal Register** 6084, Vol. 83, No. 29).

DATES: Comments must be submitted on or before June 22, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Daniel Ladd, 202–366–1859, Office of Financial Approvals, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Application for Construction Reserve Fund and Annual Statements (CRF).

OMB Control Number: 2133–0032.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Construction Reserve Fund (CRF), authorized by 46 U.S.C. Chapter 533 (the Act), is a financial assistance program which provides tax deferral benefits to U.S.-flag operators. Eligible parties can defer the gain attributable to the sale or loss of a vessel, provided the proceeds are used to expand or modernize the U.S. merchant fleet. The primary purpose of the CRF is to promote the construction, reconstruction, reconditioning, or acquisition of merchant vessels which are necessary for national defense and to the development of U.S. commerce.

Respondents: Owners or operators of vessels in the domestic or foreign commerce.

Affected Public: Owners or operators of vessels in the domestic or foreign commerce.

Estimated Number of Respondents: 17.

Estimated Number of Responses: 17.

Estimated Hours per Response: 9.

Annual Estimated Total Annual Burden Hours: 153.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: May 18, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11069 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0085]

Request for Comments on the Renewal of a Previously Approved Information Collection: Application and Reporting Elements for Participation in the Maritime Security Program

AGENCY: Maritime Administration.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information to be collected will be used to determine if selected vessels are qualified to participate in the Maritime Security Program. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on February 12, 2018, (**Federal Register** 6086, Vol. 83, No. 29).

DATES: Comments must be submitted on or before June 22, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503. Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: William McDonald, 202–366–0688, Office of Sealift Support, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W23–308, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Application and Reporting Elements for Participation in the Maritime Security Program.

OMB Control Number: 2133–0525.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Maritime Security Act of 2003 extended under Section 3508 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239 provides for the enrollment of qualified vessels in the Maritime Security Program Fleet. Applications and amendments are used to select vessels for the fleet. Periodic reporting is used to monitor adherence of contractors to program parameters.

Respondents: Vessel operators.

Affected Public: Business or other for Profit.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 212.

Annual Estimated Total Annual Burden Hours: 308.

Frequency of Response: Monthly/Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: May 18, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11070 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0548]

Request for Comments on the Renewal of a Previously Approved Information Collection: Quarterly Readiness of Strategic Seaport Facilities Reporting

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The collected information will be used by MARAD and Department of Defense (DoD) personnel to evaluate strategic commercial seaport readiness to meet contingency military deployment needs and make plans for the use of this capability to meet national emergency requirements. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on February March 5, 2018 (**Federal Register** 9363, Vol. 83, No. 43).

DATES: Comments must be submitted on or before June 22, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503. Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Nuns Jain, (757) 322–5801, Maritime Administration, U.S. Department of Transportation, 7737 Hampton Boulevard, Building 19, Suite 300, Norfolk, VA 23505 or Email: *nuns.jain@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Quarterly Readiness of Strategic Seaport Facilities Reporting.

OMB Control Number: 2133–0548.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: Pursuant to the Defense Production Act of 1950, as amended (Pub. L. 111–67), E.O. 13603, E.O. 12656 and 46 CFR part 340, MARAD works with the DoD to ensure national defense preparedness. Accordingly, MARAD issues Port Planning Orders (PPOs) to Department of Defense-designated Strategic Commercial Seaports in order to provide the Department of Defense (DoD) port facilities in support of military deployments during national emergencies. The collection of quarterly information is necessary to validate the port's ability to provide the PPO delineated facilities to the DoD within the PPO delineated time frame. Quarterly reports will seek information related to berthing capability, staging and general availability of the port by readiness hours.

Respondents: Strategic Commercial Seaports who have been designated by the Commander, Military Surface Deployment and Distribution Command (SDDC) and who have been issued a PPO by MARAD.

Affected Public: Business and other for Profit.

Estimated Number of Respondents: 16.

Estimated Number of Responses: 64 (four per respondent).

Estimated Hours per Response: 1.

Annual Estimated Total Annual Burden Hours: 64.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: May 18, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–11071 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2018–0055; Notice No. 2018–10]

Hazardous Materials: Revisions to the Emergency Response Guidebook

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice; request for information.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is soliciting input on ways to improve the Emergency Response Guidebook (ERG) as it develops the 2020 edition (ERG2020). PHMSA is particularly interested in input from emergency services personnel who have experience using the ERG to respond to hazardous materials transportation incidents.

ADDRESSES: An email address has been established for interested persons to submit their input: *ERGComments@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Martinez, Outreach, Engagement and Grants Division (PHH–50), Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Telephone number: (202) 366–4900, email: *stephen.martinez@dot.gov.*

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act:

The collection of this information has been approved under OMB Control Number 2105–0573, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' PHMSA estimates the total burden from this collection to be:

Number of Respondents: 148.

Number of Responses: 148.

Number of Burden Hours: 12.

Burden Cost: 151.

A. Background and Purpose

The Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.,* authorizes the Secretary of Transportation (Secretary) to issue and enforce regulations deemed necessary to ensure the safe transportation of hazardous materials in commerce. In addition, the law directs the Secretary to provide law enforcement and fire-fighting personnel with technical information and advice for responding to emergencies involving the transportation of hazardous materials.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) developed the United States version of the Emergency Response Guidebook (ERG) for use by emergency services personnel to provide guidance for initial response to hazardous materials transportation incidents. Since 1980, it has been PHMSA's goal that all public emergency response personnel (*e.g.,* fire-fighting, police, and rescue squads) have immediate access to the ERG. To date and without charge, PHMSA has distributed more than 14.5 million copies of the ERG to emergency service agencies and developed free online resources and downloadable mobile applications to make the ERG more accessible. Since 1996, PHMSA, Transport Canada, and the Secretariat of Communication and Transport of Mexico have developed the ERG as a joint effort, with the assistance of interested parties from government and industry, including Argentina's Chemical Information Center for Emergencies (CIQUIME). ERG2020 will be published in English, French, and Spanish.

Publication of ERG2020 will increase public safety by providing consistent emergency response procedures for hazardous materials transportation incidents in North America. To continually improve the ERG, PHMSA is publishing this notice to inform interested parties of an open-ended method to relate their experiences using the ERG and recommendations on how it could be modified or improved. If PHMSA receives comments that it cannot feasibly consider prior to the publication of ERG2020, then such comments will be considered for subsequent versions of the ERG.

In addition to this notice, PHMSA will publicize its interest in receiving input on ERG2020 through future

announcements to emergency responder associations, during training and education seminars, and during activities with State and local government agencies. PHMSA has established an email address for interested persons to submit their input (see **ADDRESSES**).

B. Emergency Response Guidebook Questions

To assist in the gathering of information, PHMSA solicits input from ERG users on experiences using, and concerns with, the 2012 and 2016 editions. We are interested in any comments stakeholders and users wish to provide, but are particularly looking for answers to the following questions:

1. How can we make the ERG more user-friendly for first responders during the initial response phase of a hazardous materials transportation incident? Please provide examples.

2. Does ERG2016 effectively emphasize the most useful information for the initial response phase?

3. Have you encountered conflicting or ambiguous guidance messages when using the ERG and other sources of technical information?

4. Are there ways we could improve the White Pages? For example:

• Did you find the ''How to Use this Guidebook'' flow chart on page 1 of ERG2016 useful in understanding how to use the ERG? Please explain why or why not.

• Do you believe we should reformat the tables, charts, and the information they provide (*i.e.,* Table of Placards, Rail Identification Chart, and Road Trailer Identification Chart)? What changes do you think would make them more useful, clear, and easy to read and use?

• What other identification charts should we add, if any? What other subject(s) should we address?

• How could we improve the information the ERG provides on chemical, biological, and radiological transportation incidents? Can you suggest information to include or remove?

• Do you find the terms in the Glossary appropriate and current? What terms should we add? What terms should we remove or change?

5. In ERG2016's Yellow or Blue Pages, have you found any identification number and/or material name that seems to be assigned to an incorrect Guide number? If so, please note the identification number, material name, the Guide number, and suggest a new Guide number with your reasons why.

6. Do the Orange Guide Pages contain recommendations and responses that are appropriate to the material they are assigned to? If not, please explain and recommend a correction.

7. How could we change/improve the introduction and description of the Green Pages, or any of the following tables?

• Table 1—''Initial Isolation and Protective Action Distances''

• Table 2—''Water Reactive Materials Which Produce Toxic Gases''

• Table 3—''Initial Isolation and Protective Action Distances for Different Quantities of Six Common TIH Gases''

8. When calling any of the Emergency Response Telephone Numbers listed in ERG2016, have you experienced a busy telephone line, disconnection, or no response? If so, please describe.

9. What format(s) of the ERG do you use (hardcopy, electronic, online, mobile applications, etc.), and why?

10. How often do you use the ERG in a dangerous goods transportation emergency?

In addition to the specific questions listed in this notice, PHMSA is also interested in any supporting data and analyses that will enhance the value of the comments submitted.

Issued in Washington, DC, on May 10, 2018.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2018–11055 Filed 5–22–18; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and five entities that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons and these entities are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On May 17, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals and entities are blocked under the relevant sanctions authority listed below.

Individuals

1. SAFI–AL–DIN, Abdallah (a.k.a. SAFIEDDINE, Abdullah); DOB 08 Jul 1960; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Passport 3527575 (Lebanon); Identification Number 637166 (Lebanon) (individual) [SDGT] (Linked To: HIZBALLAH).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for acting for or on behalf of HIZBALLAH, an entity determined to be subject to E.O. 13224.

2. BAZZI, Mohammad Ibrahim (a.k.a. BAZZI, Mohamed; a.k.a. BAZZI, Muhammad Ibrahim; a.k.a. BAZZI, Muhammed), Adnan Al-Hakim Street, Yahala Bldg., Jnah, Lebanon; Eglantierlaan 13–15, 2020, Antwerpen, Belgium; Villa Bazzi, Dohat Al-Hoss, Lebanon; DOB 10 Aug 1964; POB Bent Jbeil, Lebanon; nationality Lebanon; alt. nationality Belgium; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Passport EJ341406 (Belgium) expires 31 May 2017; alt. Passport 750249737; alt. Passport 899002098 (United Kingdom); alt. Passport 487/2007 (Lebanon); alt. Passport RL3400400 (Lebanon); alt. Passport 0236370 (Sierra Leone); alt. Passport D0000687 (The Gambia) (individual) [SDGT] (Linked To: HIZBALLAH).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for acting for or on behalf of HIZBALLAH, an entity determined to be subject to E.O. 13224.

Entities

1. AFRICA MIDDLE EAST INVESTMENT HOLDING SAL, Beirut, Lebanon; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Commercial Registry Number 1901011 (Lebanon) [SDGT] (Linked To: BAZZI, Mohammad Ibrahim).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for being owned or controlled by BAZZI, Mohammad Ibrahim, an individual determined to be subject to E.O. 13224.

2. CAR ESCORT SERVICES S.A.L. OFF SHORE (a.k.a. CAR ESCORT SERVICES SAL (OFF–SHORE)), Beirut, Lebanon; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Commercial Registry Number 1802189 (Lebanon) [SDGT] (Linked To: BAZZI, Mohammad Ibrahim; Linked To: CHARARA, Ali Youssef).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for being owned or controlled by BAZZI, Mohammad Ibrahim and CHARARA, Ali Youssef, individuals determined to be subject to E.O. 13224.

3. EURO AFRICAN GROUP LTD, Standard Chartered House Building 16, Kairaba Avenue, Banjul, The Gambia; P.O. Box 636, Banjul, The Gambia; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations [SDGT] (Linked To: BAZZI, Mohammad Ibrahim).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for being owned or controlled by BAZZI, Mohammad Ibrahim, an individual determined to be subject to E.O. 13224.

4. GLOBAL TRADING GROUP NV (a.k.a. GLOBAL TRADING GROUP), Frankrijklei 39, 2nd Floor, Antwerpen 2000, Belgium; 22 Liverpool Street, Freetown, Sierra Leone; Standard Chartered Bank Building, 2nd floor, Kairaba Ave, Banjul, The Gambia; Rue de Canal, G83 Zone 4G, 01BP1280, Abidjan, Cote d Ivoire; Quartier les Cocotiers, Avenue Pape Jean Paul II, Lot 4274, Cotonou, Benin; website *www.globaltradinggroup.com;* Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; D–U–N–S Number 37–117–1419 [SDGT] (Linked To: BAZZI, Mohammad Ibrahim).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for being owned or controlled by BAZZI, Mohammad Ibrahim, an individual determined to be subject to E.O. 13224.

5. PREMIER INVESTMENT GROUP SAL (OFF–SHORE) (a.k.a. PREMIER INVESTMENT GROUP SAL; a.k.a. PREMIER INVESTMENT GROUP SAL OFF SHORE), Lazariste Building, Riad Solh Street, Beirut, Lebanon; El-Lazarieh Building Block 1–2a—Fourth Floor, Beirut, Lebanon; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Commercial Registry Number 1803907 (Lebanon) [SDGT] (Linked To: BAZZI, Mohammad Ibrahim).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for being owned or controlled by BAZZI, Mohammad Ibrahim, an individual determined to be subject to E.O. 13224.

Dated: May 17, 2018.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2018–10951 Filed 5–22–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–DIV

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 1099–DIV, Dividends and Distributions.

DATES: Written comments should be received on or before July 23, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sandra Lowery at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (202) 317–5754 or through the internet, at *Sandra.J.Lowery@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Dividends and Distributions.

OMB Number: 1545–0110.

Form Number: Form 1099–DIV.

Abstract: Form 1099–DIV is used by the IRS to ensure that dividends are properly reported as required by Internal Revenue Code section 6402, that liquidation distributions are correctly reported as required by Internal Revenue Code section 6403, and to determine whether payees are correctly reporting their income.

Current Actions: There are changes to the previously approved burden of this existing collection due to one new box was added, and an estimated change in filers.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 78,339,500.

Estimated Time per Respondent: 24 minutes.

Estimated Total Annual Burden Hours: 32,119,195.

The following paragraph applies to all of the collections of information covered by this notice:

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

of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2018.

Roberto Mora-Figueroa,

PRA Clearance Officer.

[FR Doc. 2018–10981 Filed 5–22–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Request for Applications for Appointment to the Citizens Coinage Advisory Committee

AGENCY: United States Mint, Treasury.

ACTION: Request for applications for appointment to the Citizens Coinage Advisory Committee.

SUMMARY: Pursuant to United States Code, the United States Mint is accepting applications for appointment to the Citizens Coinage Advisory Committee (CCAC) as a member specially qualified by virtue of their experience in the medallic arts or sculpture.

FOR FURTHER INFORMATION CONTACT: Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7770.

SUPPLEMENTARY INFORMATION:

The CCAC was established to:

- Advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals produced by the United States Mint.
- Advise the Secretary of the Treasury with regard to the events, persons, or places that the CCAC recommends to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Make recommendations with respect to the mintage level for any commemorative coin recommended.

Total membership consists of eleven voting members appointed by the Secretary of the Treasury:

- One person specially qualified by virtue of his or her education, training, or experience as nationally or internationally recognized curator in the United States of a numismatic collection;
- One person specially qualified by virtue of his or her experience in the medallic arts or sculpture;
- One person specially qualified by virtue of his or her education, training, or experience in American history;
- One person specially qualified by virtue of his or her education, training, or experience in numismatics;
- Three persons who can represent the interests of the general public in the coinage of the United States; and
- Four persons appointed by the Secretary of the Treasury on the basis of the recommendations by the House and Senate leadership.

Members are appointed for a term of four years. No individual may be appointed to the CCAC while serving as an officer or employee of the Federal Government.

The CCAC is subject to the direction of the Secretary of the Treasury. Meetings of the CCAC are open to the public and are held approximately four to six times per year. The United States Mint is responsible for providing the necessary support, technical services, and advice to the CCAC. CCAC members are not paid for their time or services, but, consistent with Federal Travel Regulations, members are reimbursed for their travel and lodging expenses to attend meetings. Members are Special Government Employees and are subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2653).

The United States Mint will review all submissions and will forward its recommendations to the Secretary of the Treasury for appointment consideration. Candidates should include specific skills, abilities, talents, and credentials to support their applications. The United States Mint is interested in candidates who in addition to their experience in medallic arts or sculpture, have demonstrated interest and a commitment to actively participate in meetings and activities, and a demonstrated understanding of the role of the CCAC and the obligations of a Special Government Employee; possess demonstrated leadership skills in their fields of expertise or discipline; possess a demonstrated desire for public service and have a history of honorable professional and personal conduct, as well as successful standing in their communities; and who are free of professional, political, or financial interests that could negatively affect their ability to provide impartial advice.

Application Deadline: Friday, June 8, 2018.

Receipt of Applications: Any member of the public wishing to be considered for participation on the CCAC should submit a resume and cover letter describing his or her reasons for seeking and qualifications for membership, by email to *info@ccac.gov* or by mail to the United States Mint; 801 9th Street NW; Washington, DC 20220; Attn: Greg Weinman. Submissions must be postmarked no later than Friday, June 8, 2018.

Notice Concerning Delivery of First-Class and Priority Mail

First-class mail to the United States Mint is put through an irradiation process to protect against biological contamination. Support materials put through this process may suffer irreversible damage. We encourage you to consider using alternate delivery services, especially when sending time-sensitive material.

David J. Ryder,

Director, United States Mint.

[FR Doc. 2018–11026 Filed 5–22–18; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act the Veterans and Community Oversight and Engagement Board will meet on June 13–14, 2018. Details on times and locations for meetings are contained below. The meetings are open to the public.

The Board is and was established by the West Los Angeles Leasing Act of

2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs on: Identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On Wednesday, June 13, 2018, the Board will convene an open session at 11301 Wilshire Boulevard, Los Angeles, CA, Building 500, Room 1281 from 8:00 a.m. to 12:45 p.m. The agenda will include briefings from senior VA officials, and information briefings from the Greater Los Angeles Draft Master Plan Integrated Project Team. At 12:45, the Board members will be transported to downtown Los Angeles to conduct a site visit to Skid Row from 2:00 p.m.–3:00 p.m., where members will be engaging homeless veterans to gain insights from the large homeless population. The first of two public comment sessions will occur at the Bob Hope Patriotic Hall at 1816 South Figueroa Street, Los Angeles, CA 90015 from 3:30 p.m.–4:30 p.m.

On Thursday, June 14, 2018, the Board will convene an open session at 11301 Wilshire Boulevard, Los Angeles, CA, Building 500, Room 1281 from 10:00 a.m. to 7:15 p.m. The Board will conduct synthesis and discussions of the previous days site visit and public comment session. The Board's subcommittees on Outreach and Community Engagement, Services and Outcomes, and Master Plan will report out on activities since the last meeting, and progress on draft recommendations considered for forwarding to the SECVA. The second of two public comment sessions will be conducted at 11301 Wilshire Boulevard, Los Angeles, CA, Building 500, Room 1281 from 4:30 p.m.–6:00 p.m.

Individuals wishing to make public comments at either session should contact Ms. Toni Bush Neal at *Toni.BushNeal@va.gov* and are requested to submit a 1–2-page summary of their comments for inclusion in the official meeting record. In the interest of time, each speaker will be held to a 5-minute time limit.

Any member of the public seeking additional information should contact Ms. Bush Neal at (215) 292–9790 or at *Toni.BushNeal@va.gov*.

Dated: May 18, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–10991 Filed 5–22–18; 8:45 am]

BILLING CODE P

Reader Aids

Federal Register

Vol. 83, No. 100

Wednesday, May 23, 2018

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, MAY

18913–19156 1
19157–19426 2
19427–19602 3
19603–19904 4
19905–20706 7
20707–21164 8
21165–21706 9
21707–21840 10
21841–22176 11
22177–22346 14
22347–22586 15
22587–22830 16
22831–23206 17
23207–23348 18
23349–23574 21
23575–23774 22
23775–24000 23

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

426 ..... 19408, 19414

3 CFR

Proclamations:
9704 (Amended by 9739) 20677
9705 (Amended by 9740) 20683
9710 (Amended by 9739) 20677
9711 (Amended by 9740) 20683
9729 19155
9730 19425
9731 19599
9732 19601
9733 19893
9734 19895
9735 19897
9736 19899
9737 19901
9738 19903
9739 20677
9740 20683
9741 20713
9742 22165
9743 22167
9744 22169
9745 22171
9746 22347
9747 23201
9748 23203
9749 23205
Executive Orders:
13198 (Amended by EO 13831) 20715
13280 (Amended by EO 13831) 20715
13342 (Amended by EO 13831) 20715
13397 (Amended by EO 13831) 20715
13559 (Amended by EO 13831) 20715
13199 (Revoked by EO 13831) 20715
13498 (Revoked by EO 13831) 20715
13693 (Revoked by EO 13834) 23771
13831 20715
13832 22343
13833 23345
13834 23771
Administrative Orders:
Memorandums:
Memorandum of April 26, 2018 19157
Notices:
Notice of May 9, 2018 21839
Notice of May 14, 2018 22585
Notice of May 18, 2018 23573
Presidential Determinations:
No. 2018-05 of April 20, 2018 20707
No. 2018-06 of April 30, 2018 20709
No. 2018-07 of April 30, 2018 20711
Notice of May 10, 2018 22175

6 CFR

Proposed Rules:
5 ..... 19020, 20738

7 CFR

2 22177
250 18913
625 23207
636 23207
900 22831
925 21165
984 21841
1006 21843
1409 22177
1415 23207
1465 23207
1466 23207
1468 23207
1470 23207
1773 19905
3419 21846
Proposed Rules:
66 ..... 19860, 23827
930 21941
945 21188
1255 22213

9 CFR

101 22832
116 22832
Proposed Rules:
310 22604

10 CFR

75 19603
430 22587
Proposed Rules:
Ch. I 19464
37 22413

12 CFR

201 21167
1026 19159
Proposed Rules:
1 22312
3 22312
5 22312

23 22312
24 22312
32 22312
34 22312
46 22312
208 22312
211 22312
215 22312
217 22312
223 22312
225 22312
252 22312
324 22312
325 22312
327 22312
347 22312
390 22312
1290 19188
1291 19188

13 CFR

120 ....19915, 19921

14 CFR

23 ....19427, 21850
25 ....18934, 19176, 23209
39 ....19176, 19615, 19922, 19925, 19928, 20719, 21169, 21855, 21858, 21861, 21867, 22349, 22351, 22354, 22358, 22360, 22362, 22589, 22836, 23349, 23351, 23355, 23575, 23775, 23778, 23780, 23788, 23791, 23794
71 ....19617, 19930, 19931, 19933, 21870, 21871, 22839, 22840, 23796, 23798
73 18938
97 ....20725, 20728, 23799, 23802
382 23804

Proposed Rules:

21 19021
25 22214
39 ....19466, 19648, 19983, 20740, 20743, 20745, 20748, 20751, 21191, 21194, 21196, 21199, 21946, 21948, 21951, 21953, 21955, 21962, 21964, 21966, 22219, 22222, 22414, 22417, 22420, 22422, 22426, 22883, 22886, 23240, 23827, 23829
71 ....19469, 19471, 19472, 19474, 19650, 19653, 19655, 19986, 19987, 21968, 21970, 22888, 22889, 22891, 23381, 23831
Ch. II 21684
382 23832

15 CFR

744 22842

17 CFR

30 23577
232 22190
249 22190

Proposed Rules:

23 23842
210 20753
240 ....21416, 21574, 23848
249 ....21416, 23848
275 ....21203, 23848
279 ....21416, 23848

18 CFR

37 21342
385 23807

Proposed Rules:

8 23848
40 23854
141 23848

19 CFR

201 21140
210 21140

20 CFR

404 ....21707, 23579

Proposed Rules:

404 20646
416 20646

21 CFR

1 22193
11 ....20731, 22193
16 22193
101 ....19619, 20731
102 19429
106 22193
110 22193
111 22193
112 22193
114 22193
117 22193
120 22193
123 22193
129 22193
172 23358
179 22193
211 22193
507 22193
573 19934
600 19936
864 23212
878 22846
880 19626
1308 21826

Proposed Rules:

3 22428
172 23382
201 22224
343 22224
1308 21834

22 CFR

50 ....21872, 22848
51 ....21872, 22848

23 CFR

710 21709

Proposed Rules:

625 21972

26 CFR

54 19431

28 CFR

0 23360
32 22367

29 CFR

1910 19936
2590 19431
4022 22387

Proposed Rules:

1910 19989
1926 23534

30 CFR

925 22849

Proposed Rules:

250 22128
926 20773
938 ....20774, 22607

31 CFR

408 18939

32 CFR

291 19179
706 23809
733 22852
2004 19950

33 CFR

100 ....19179, 19628, 19630, 21171, 22194, 22389, 23218, 23224
117 ....19630, 21710, 21711, 22199, 22389, 22390, 23220, 23221, 23361, 23581, 23582
147 ....20733, 22389
165 ....18941, 18943, 18946, 19436, 19963, 19965, 21712, 21714, 21716, 21717, 21876, 21883, 21885, 21886, 21888, 22201, 22389, 22391, 22592, 23222, 23226, 23228, 23230, 23362, 23364, 23366, 23367, 23369, 23371, 23582, 23583, 23810
326 19180

Proposed Rules:

100 ....19656, 23392, 23395
117 ....19659, 23398
151 21214
165 ....19025, 19189, 22225, 22894, 23242, 23400, 23615, 23617, 23619
334 ....23864, 23867

36 CFR

242 23813

Proposed Rules:

13 23621

37 CFR

Proposed Rules:

42 21221
201 ....22896, 22902
202 ....22609, 22896, 22902
384 22907

38 CFR

3 20735
17 ....21893, 21897

40 CFR

52 ....19438, 19631, 19637, 21174, 21178, 21719, 21907, 21909, 22203, 22207, 22853, 23232, 23372
62 19184
80 22593
180 ....19968, 19972, 22595, 22854, 23819
300 ....22859, 23374

Proposed Rules:

49 20775
51 19026
52 ....19191, 19194, 19476, 19479, 19483, 19495, 19497, 20002, 21226, 21233, 21235, 21238, 21977, 22227, 22436, 22908, 22913, 23244, 23402, 23407
55 21254
62 19195
63 ....19499, 22438, 22754
81 ....21238, 21977, 22235
152 20004
156 20004
174 20004
180 ....20004, 20008, 22439, 22440, 23247
300 ....22918, 23408, 23409

42 CFR

414 ....21912, 23584
431 19440

Proposed Rules:

10 20008
411 21018
412 ....20164, 20972, 21104
413 ....20164, 21018
418 20934
424 ....20164, 21018
495 20164

44 CFR

64 23610

45 CFR

144 19431
146 19431
147 ....19431, 21925
153 21925
154 21925
155 21925
156 21925
157 21925
158 21925

47 CFR

1 ....19186, 19440, 21722, 21927
2 19976
8 21927
20 ....21927, 23378
25 22391
51 ....22208, 23611
54 ....18948, 18951, 23380, 23611
63 21181
64 ....18951, 21723
68 23378
73 ....19186, 19459, 22209
74 23613
76 19461
90 19976

Proposed Rules:

Ch. I 21747
0 20011
1 ....19660, 22923
2 ....19660, 20011, 23412
15 19660
25 ....19660, 21746
30 19660
32 22923
51 22923
54 19196
61 22923
64 21983
69 22923
73 21995
76 19033
90 20011
101 19660

48 CFR

Ch. 1 ....19144, 19150

16 19145
19 19146
22 19148
49 19149
52 19148
201 19641
212 19641
215 19645
246 19641
252 19641

Proposed Rules:

Appx. I Ch. 2 19677
219 19677

49 CFR

350 22865
360 22865
365 22865
373 22865
380 22865
382 22865
383 22865
384 22865
385 22865
387 22865
390 22865
393 22865
395 22865
396 22865
397 22865
398 22865
1040 19647
1552 23238

50 CFR

17 ....21928, 22392
100 23813
222 21738
224 21182
622 ....22210, 22601, 23825
635 ....21744, 21936, 22602
648 ....18965, 18972, 18985, 19461, 19462
660 ....19005, 19981, 22401
665 21939
679 22411

Proposed Rules:

20 23869
300 21748
622 22938
679 23250

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 11, 2018

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.