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Presidential Documents

Title 3—

The President

Executive Order 13841 of June 20, 2018

Affording Congress an Opportunity To Address Family Separation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of this Administration to rigorously enforce our immigration laws. Under our laws, the only legal way for an alien to enter this country is at a designated port of entry at an appropriate time. When an alien enters or attempts to enter the country anywhere else, that alien has committed at least the crime of improper entry and is subject to a fine or imprisonment under section 1325(a) of title 8, United States Code. This Administration will initiate proceedings to enforce this and other criminal provisions of the INA until and unless Congress directs otherwise. It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources. It is unfortunate that Congress's failure to act and court orders have put the Administration in the position of separating alien families to effectively enforce the law.

Sec. 2. *Definitions.* For purposes of this order, the following definitions apply:

(a) ''Alien family'' means

(i) any person not a citizen or national of the United States who has not been admitted into, or is not authorized to enter or remain in, the United States, who entered this country with an alien child or alien children at or between designated ports of entry and who was detained; and

(ii) that person's alien child or alien children.

(b) ''Alien child'' means any person not a citizen or national of the United States who

(i) has not been admitted into, or is not authorized to enter or remain in, the United States;

(ii) is under the age of 18; and

(iii) has a legal parent-child relationship to an alien who entered the United States with the alien child at or between designated ports of entry and who was detained.

Sec. 3. *Temporary Detention Policy for Families Entering this Country Illegally.* (a) The Secretary of Homeland Security (Secretary), shall, to the extent permitted by law and subject to the availability of appropriations, maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members.

(b) The Secretary shall not, however, detain an alien family together when there is a concern that detention of an alien child with the child's alien parent would pose a risk to the child's welfare.

(c) The Secretary of Defense shall take all legally available measures to provide to the Secretary, upon request, any existing facilities available for the housing and care of alien families, and shall construct such facilities if necessary and consistent with law. The Secretary, to the extent permitted by law, shall be responsible for reimbursement for the use of these facilities.

(d) Heads of executive departments and agencies shall, to the extent consistent with law, make available to the Secretary, for the housing and care of alien families pending court proceedings for improper entry, any facilities that are appropriate for such purposes. The Secretary, to the extent permitted by law, shall be responsible for reimbursement for the use of these facilities.

(e) The Attorney General shall promptly file a request with the U.S. District Court for the Central District of California to modify the Settlement Agreement in *Flores v. Sessions,* CV 85–4544 (''*Flores* settlement''), in a manner that would permit the Secretary, under present resource constraints, to detain alien families together throughout the pendency of criminal proceedings for improper entry or any removal or other immigration proceedings.

Sec. 4. *Prioritization of Immigration Proceedings Involving Alien Families.* The Attorney General shall, to the extent practicable, prioritize the adjudication of cases involving detained families.

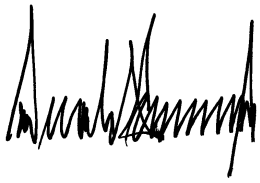
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
June 20, 2018.

[FR Doc. 2018–13696
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Rules and Regulations

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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.

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NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

[NRC–2017–0154]

Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory issue summary; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a Regulatory Issue Summary (RIS) entitled, RIS 2002–22, Supplement 1, ''Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems.'' This RIS supplement clarifies RIS 2002–22, which remains in effect. The NRC continues to endorse Nuclear Energy Institute (NEI)–01–01, as stated in RIS 2002–22 and clarified RIS 2002–22, Supplement 1. This RIS supplement clarifies the guidance in RIS 2002–22 for preparing and documenting qualitative assessments that licensees can use to develop written evaluations to address the criteria in NRC's regulations for digital instrumentation and control (I&C) modifications. This clarification is intended to reduce regulatory uncertainty for licensees applying the process set in the NRC's regulations and making digital I&C modifications without prior NRC approval.

DATES: The RIS 2002–22, Supplement 1 is available as of June 25, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0154 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0154. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. RIS 2002–22, Supplement 1 is available under ADAMS Accession No. ML18143B633.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- RIS 2002–22, Supplement 1 is also available on the NRC's public website at *http://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/* (select ''2002'' and then select ''2002–22, Supplement 1'').

FOR FURTHER INFORMATION CONTACT: Tekia Govan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6197, email: *Tekia.Govan@nrc.gov.*

SUPPLEMENTARY INFORMATION: Supplement 1 of RIS 2002–22, ''Clarification on Endorsement of Nuclear Energy Institute Guidance in Designing Digital Upgrades in Instrumentation and Control Systems'' (ADAMS Accession No. ML18143B633), is intended for (1) all holders of operating licenses under part 50 of title 10 of the *Code of Federal Regulations* (CFR), ''Domestic Licensing of Production and Utilization Facilities,'' and (2) all holders of a combined license under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

In 2002, the NRC staff issued RIS 2002–22 to notify addressees that the NRC staff had reviewed NEI–01–01 and was endorsing the report for use as guidance in designing and implementing digital upgrades to nuclear power plant instrumentation and control systems. Following the NRC staff's 2002 endorsement of NEI 01–01, holders of operating licenses have used this guidance in support of digital design modifications implemented without prior NRC approval in accordance with 10 CFR 50.59. The NRC inspections of documentation for these activities uncovered inconsistencies in the performance and documentation of engineering evaluations and associated technical bases for determinations on the 10 CFR 50.59(c)(2) evaluation criteria. This RIS Supplement clarifies the RIS 2002–22 endorsement of the NEI 01–01 guidance by providing additional guidance for developing and documenting ''qualitative assessments'' that are used to provide an adequate basis for a licensee's determination that a digital modification will exhibit a low likelihood of failure to support a conclusion when applying the evaluation criteria set in 10 CFR 50.59, that a license amendment is not needed.

The NRC published a notice of opportunity for public comment on a previous draft of this RIS in the **Federal Register** on July 3, 2017 (82 FR 30913). Subsequently, the NRC published a second notice of opportunity for public comment on the revised RIS on March 14, 2018 (83 FR 11154). As noted in the March 14, 2018 **Federal Register** notice (FRN), ''[t]he NRC staff engaged in multiple communications with the public and stakeholders and continued internal discussions about the RIS. As a result of these efforts, the NRC has substantially rewritten the RIS. Due to the extensive nature of these revisions, and in light of this additional opportunity for comment, the NRC is not directly responding to each comment received in the previous comment period.''

The NRC received comments from seven commenters as a result of the March 14, 2018 FRN. The NRC considered all comments, some of which resulted in changes to the RIS, and discussed the evaluation of these comments and the resulting changes to the RIS in a memorandum that is

publicly available in ADAMS under Accession No. ML18115A298.

As noted in 83 FR 20858 (May 8, 2018), this document is being published in the Rules section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

Dated at Rockville, Maryland, this 20th day of June 2018.

For the Nuclear Regulatory Commission.

Tekia Govan,

Project Manager, ROP Support and Generic Communication Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–13570 Filed 6–22–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2018–0594]

Special Local Regulation; Seattle Seafair Unlimited Hydroplane Race, Lake Washington, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Seattle Seafair Unlimited Hydroplane Race Special Local Regulation on Lake Washington, WA from 8 a.m. on July 31, 2018, through 8 p.m. on August 6, 2018, during hydroplane race times. This action is necessary to ensure public safety from the inherent dangers associated with high-speed races while allowing access for rescue personnel in the event of an emergency. During the enforcement period, no person or vessel will be allowed to enter the regulated area without the permission of the Captain of the Port, on-scene Patrol Commander or her Designated Representative.

DATES: The regulations in 33 CFR 100.1301 will be enforced from 8 a.m. on July 31, 2018, through 8 p.m. on August 6, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206–217–6051, email *SectorPugetSound@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Seattle Seafair Unlimited Hydroplane Race special local regulations in 33 CFR 100.1301 from 8 a.m. on July 31, 2018, through 8 p.m. on August 6, 2018.

Under the provisions of 33 CFR 100.1301, the Coast Guard will restrict general navigation in the following area: All waters of Lake Washington bounded by the Interstate 90 (Mercer Island/Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

The regulated area has been divided into two zones. The zones are separated by a line perpendicular from the I–90 Bridge to the northwest corner of the East log boom and a line extending from the southeast corner of the East log boom to the southeast corner of the hydroplane race course and then to the northerly tip of Ohlers Island in Andrews Bay. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA Chart 18447).

The Coast Guard will maintain a patrol consisting of Coast Guard vessels, assisted by Coast Guard Auxiliary vessels, in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the ''Patrol Commander''). The Patrol Commander is empowered to control the movement of vessels on the racecourse and in the adjoining waters during the periods this regulation is subject to enforcement. The Patrol Commander may be assisted by other federal, state and local law enforcement agencies.

Only vessels authorized by the Patrol Commander may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by the Patrol Commander.

During the times in which the regulation is subject to enforcement, the following rules shall apply:

(1) Swimming, wading, or otherwise entering the water in Zone I by any person is prohibited while hydroplane boats are on the racecourse. At other times in Zone I, any person entering the water from the shoreline shall remain west of the swim line, denoted by buoys, and any person entering the water from the log boom shall remain within 10 feet of the log boom.

(2) Any person swimming or otherwise entering the water in Zone II shall remain within 10 feet of a vessel.

(3) Rafting to a log boom will be limited to groups of three vessels.

(4) Up to six vessels may raft together in Zone II if none of the vessels are secured to a log boom. Only vessels authorized by the Patrol Commander, other law enforcement agencies or event sponsors shall be permitted to tow other watercraft or inflatable devices.

(5) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, 7 miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(6) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of 7 miles per hour or less. The maximum speed may be reduced at the discretion of the Patrol Commander.

(7) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The Captain of the Port may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 100.1301 and 5 U.S.C. 552(a). If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 19, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Acting Captain of the Port, Puget Sound.

[FR Doc. 2018–13520 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0273]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, West Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments, extension.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Flagler Memorial (SR A1A) Bridge, mile 1021.8, the Royal Park (SR 704) Bridge, mile 1022.6, and the Southern Boulevard (SR 700/80) Bridge, mile 1024.7, across the

Atlantic Intracoastal Waterway, at West Palm Beach, Florida. This deviation will extend the test to change the drawbridge operation schedules to determine whether permanent changes to the schedules are needed. This deviation allows the Flagler Memorial, Royal Park and Southern Boulevard Bridges to operate on alternative schedules when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service visit Mar-a-Lago. This deviation is necessary to accommodate the increase in vehicular traffic when the presidential motorcade is in transit.

DATES: This deviation is effective without actual notice from June 25, 2018 through 11:59 p.m. on August 29, 2018. For purposes of enforcement, actual notice will be used from 12:01 a.m. on June 1, 2018, until June 25, 2018.

Comments and relate material must reach the Coast Guard on or before July 25, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0273 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email CWO Robert Wooten, Coast Guard Sector Miami, FL, Waterways Management Division, telephone 305–535–4311, email *Robert.A.Wooten@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

On August 17, 2017, the Coast Guard published a notice of deviation from drawbridge regulation with request for comments in the **Federal Register** (82 FR 39019) to test proposed changes. Three comments were received, which were in favor of the regulation changes. Due to delays in processing this proposed regulatory change, on March 6, 2018, the Coast Guard published a notice of deviation from regulations with request for comments extension in the **Federal Register** (82 FR 9431) to allow for additional time for the public to comment. Two comments were received; one in favor of the regulation change and one was not relevant to the regulation. On May 21, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Palm Beach, FL in the **Federal Register** (83 FR 23398). The submission deadline for public comments related to that proposed rule is July 5, 2018. Due to unanticipated delays in processing this regulatory change, the Coast Guard finds it necessary to extend the test deviation to allow additional time for public comment. The changes to the operating schedules proposed in this deviation will coincide with the establishment of the Presidential Security Zone (82 FR 17295).

When the President of the United States, members of the First Family, or other persons under the protection of the Secret Service visit Mar-a-Lago, drawbridge openings have caused traffic backups in the West Palm Beach area. The increase in traffic congestion occurs when the presidential motorcade is in transit, which closes the Southern Boulevard Bridge to vehicle and vessel traffic. This action requires through traffic to use the Flagler Memorial and Royal Park Bridges. The Mayor of Palm Beach has asked the Coast Guard and the bridge owner, Florida Department of Transportation, to test a change to the operating regulations of those bridges.

During this temporary deviation, the Flagler Memorial Bridge is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:15 p.m., 3:15 p.m., 4:15 p.m. and 5:15 p.m., weekdays only, if vessels are requesting an opening. The Royal Park Bridge is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:30 p.m., 3:30 p.m., 4:30 p.m. and 5:30 p.m., weekdays only, if vessels are requesting an opening. At all other times the bridges will operate per their normal schedules, published in 33 CFR 117.261(u) and (v), respectively.

The operating schedule of the Southern Boulevard Bridge, which is closest to Mar-a-Lago, will be allowed to remain closed to navigation whenever the presidential motorcade is in transit. At all other times the bridge shall open on the quarter and three-quarter hour, or as directed by the on-scene designated representative.

This test deviation will have an impact on marine traffic while alleviating some vehicle traffic backups. Tugs with tows are not exempt from this regulation. Vessels able to pass through the Flagler Memorial and Royal Park Bridges in the closed position may do so at any time. The bridges will be able to open for emergencies. The Southern Boulevard Bridge will be under the control of the on-scene designated representative.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedules immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacynotice.*

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: June 18, 2018.

Barry L. Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2018–13498 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0408]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Harvey, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Lapalco Boulevard Bridge, Harvey Canal Route, mile 2.8, over the Gulf Intracoastal Waterway, in Harvey, LA. The deviation is necessary to accommodate maintenance and replacement of various bridge components. This deviation allows the bridge to remain in the closed-to-navigation position for two separate seven-day periods.

DATES: This deviation is effective from 6 a.m. on July 23, 2018 through 6 a.m. on August 13, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0408 is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Donna Gagliano, Bridge Branch Office, Eighth District, U.S. Coast Guard; telephone 504–671–2128, email *Donna.Gagliano@uscg.mil.*

SUPPLEMENTARY INFORMATION: The owner of the bridge, Jefferson Parish, has requested a temporary deviation from the operating schedule for the Lapalco Boulevard Bridge, Harvey Canal Route, mile 2.8 over the Gulf Intracoastal Waterway in Harvey, LA to remain in the closed-to-navigation position to marine traffic for maintenance and component replacement activities over two separate seven-day periods. The bascule span drawbridge has a vertical clearance of 45 feet above mean high water in the closed-to-navigation position.

The current operating schedule is set out in 33 CFR 117.451(a). This temporary deviation allows the bridge to remain in the closed-to-navigation position from 6 a.m. on July 23, 2018 through 6 a.m. on July 30, 2018, and from 6 a.m. on August 6, 2018 through 6 a.m. on August 13, 2018. This temporary deviation is necessary in order to replace the motors and brakes necessary for the operation of the bridge.

Navigation on the waterway consists mainly of tugs with tows, with some commercial fishing vessels and recreational craft. Vessels able to pass through the bridge in the closed to navigation position may do so at any time. The bridge will not be able to open for emergencies during these repairs. However, an alternate route is available via the Gulf Intracoastal Waterway Algiers Alternate Route. The Coast Guard will also inform the waterway users of the change in operating schedule for the bridge through our Local Notice and Broadcast Notices to Mariners so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of each of the effective time periods. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 19, 2018.

Douglas A. Blakemore,

Bridge Administrator, U.S. Coast Guard Eighth District.

[FR Doc. 2018–13517 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0571]

RIN 1625–AA00

Safety Zone; Port Huron Blue Water Festival Fireworks, St. Clair River, Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 420-foot radius of a portion of the St. Clair River, Port Huron, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Blue Water Festival Fireworks.

DATES: This temporary final rule is effective from 10 p.m. on July 21, 2018 through 10:30 p.m. on July 22, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0571 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 temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, or email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Detroit
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event.

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 Detroit (COTP) has determined that potential hazard associated with fireworks from 10 p.m. on July 21, 2018 through 10:30 p.m. on July 22, 2018 will be a safety concern to anyone within a 420-foot radius of the launch site. This rule is needed to protect personnel, vessels, and the

marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. on July 21, 2018 through 10:30 p.m. on July 22, 2018. The safety zone will encompass all U.S. navigable waters of the St. Clair River, Port Huron, MI, within a 420-foot radius of position 42°58.838′ N, 082°25.194′ W (NAD 83). The safety zone will be enforced from 10 p.m. to 10:30 p.m. on July 21, 2018. In the case of inclement weather on July 21, 2018, this safety zone will be enforced from 10 p.m. to 10:30 p.m. on July 22, 2018. 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, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the St. Clair River from 10 p.m. on July 21, 2018 through 10:30 p.m. on July 22, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 one hour that will prohibit entry into a designated area. 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.T09–0571 to read as follows:

§ 165.T09–0571 Safety Zone; Blue Water Festival Fireworks, St. Clair River, Port Huron, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the St. Clair River, Port Huron, MI, within a 420-foot radius of position 42°58.838′ N, 082°25.194′ W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 10 p.m. through 10:30 p.m. on July 21, 2018. In the case of inclement weather on July 21, 2018, this safety zone will be enforced from 10 p.m. to 10:30 p.m. on July 22, 2018. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The ''on-scene representative'' of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at (313) 568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: June 18, 2018.

Jeffrey W. Novak,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2018–13575 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0569]

RIN 1625–AA00

Safety Zone; Roar on the River, Trenton Channel, Trenton, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 350-foot radius of a portion of the Trenton Channel, Trenton, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Roar on the River Fireworks.

DATES: This temporary final rule is effective from 10 p.m. on July 21, 2018 through 11 p.m. on July 22, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0569 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 temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, or email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Detroit
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 Detroit (COTP) has determined that potential hazard associated with fireworks from 10 p.m. on July 21, 2018 through 11 p.m. on July 22, 2018 will be a safety concern to anyone within a 350-foot radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. on July 21, 2018 through 11 p.m. on July 22, 2018. The safety zone will encompass all U.S. navigable waters of the Trenton Channel, Trenton, MI, within a 350-foot radius of position 42°07.5′ N, 083°10.45′ W (NAD 83). The safety zone will be enforced from 10 p.m. to 11 p.m. on July 21, 2018. In the case of inclement weather on July 21, 2018, this safety zone will be enforced from 10 p.m. to 11 p.m. on July 22, 2018. 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, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Trenton Channel from 10 p.m. on July 21, 2018 through 11 p.m. on July 22, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 enforced for one hour that will prohibit entry into a designated area. 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.T09–0569 to read as follows:

§ 165.T09–0569 Safety Zone; Roar on the River Fireworks, Trenton Channel, Trenton, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the Trenton Channel, Trenton, MI, within a 350-foot radius of position 42°07.5′ N, 083°10.45′ W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 10 p.m. to 11 p.m. on July 21, 2018. In the case of inclement weather on July 21, 2018, this safety zone will be enforced from 10 p.m. to 11 p.m. on July 22, 2018.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless

authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The ''on-scene representative'' of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at (313) 568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: June 18, 2018.

Jeffrey W. Novak,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2018–13569 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0585]

RIN 1625–AA00

Safety Zone; Detroit Symphony Orchestra, Lake St. Clair, Grosse Pointe Shores, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 420-foot radius of a portion of Lake St. Clair, Grosse Pointe Shores, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Detroit Symphony Orchestra Fireworks.

DATES: This temporary final rule is effective from 10 p.m. on July 13, 2018 through 11 p.m. on July 14, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0585 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 temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, or email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Detroit
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event.

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 Detroit (COTP) has determined that potential hazard associated with fireworks from 10 p.m. on July 13, 2018 through 11 p.m. on July 14, 2018 will be a safety concern to anyone within a 420-foot radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. on July 13, 2018 through 11 p.m. on July 14, 2018. The safety zone will encompass all U.S. navigable waters of Lake St. Clair, Grosse Pointe Shores, MI, within a 420-foot radius of position 42°27.25′ N, 082°51.95′ W (NAD 83). The safety zone will be enforced from 10 p.m. to 11 p.m. on July 13, 2018 and July 14, 2018. 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, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Lake St. Clair from 10 p.m. on July 13, 2018 through 11 p.m. on July 14, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and

operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 one hour that will prohibit entry into a designated area. 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.T09–0585 to read as follows:

§ 165.T09–0585 Safety Zone; Detroit Symphony Orchestra, Lake St. Clair, Grosse Pointe Shores, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of Lake St. Clair, Grosse Pointe Shores, MI, within a 420-foot radius of position 42°27.25′ N, 082°51.95′ W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be in effect from 10 p.m. on July 13, 2018 through 11 p.m. on July 14, 2018. The safety zone will be enforced from 10 p.m. to 11 p.m. on July 13, 2018 and July 14, 2018.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The ''on-scene representative'' of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at (313) 568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: June 18, 2018.

Jeffrey W. Novak,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2018–13568 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0592]

Safety Zone; Seafair Air Show Performance, 2018, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Seafair Air Show Performance safety zone on Lake Washington, Seattle, WA daily, from 8 a.m. until 4 p.m., from August 2, 2018, through August 5, 2018. This action is necessary to ensure the safety of the public from inherent dangers associated with these annual aerial displays. During the enforcement period, no person or vessel may enter or transit this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: The regulations in 33 CFR 165.1319 will be enforced daily, from 8 a.m. until 4 p.m., from August 2, 2018, through August 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Seafair Air Show Performance safety zone in 33 CFR 165.1319 daily, from 8 a.m. until 4 p.m., from August 2, 2018, through August 5, 2018 unless canceled sooner by the Captain of the Port.

Under the provisions of 33 CFR 165.1319, the following area is designated as a safety zone: All waters of Lake Washington, Washington State, south of the Interstate 90 bridge, west of Mercer Island, and north of Seward Park. The specific boundaries of the safety zone are listed in 33 CFR 165.1319(b).

In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or Designated Representatives. Vessels and persons granted authorization to enter the safety zone must obey all lawful orders or directions made by the Captain of the Port or his designated representative.

The Captain of the Port may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of the safety zone via the Local Notice to Mariners and marine information broadcasts on the day of the event. If the COTP determines that the safety zone need not be enforced for the full duration stated in this notice of enforcement, she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 19, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Acting Captain of the Port Puget Sound.

[FR Doc. 2018–13519 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0591]

Safety Zones; Annual Firework Displays Within the Captain of the Port, Puget Sound

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce four safety zones for annual firework displays in the Captain of the Port, Puget Sound Zone during the dates and times noted under **SUPPLEMENTARY INFORMATION**. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with the firework displays. During the enforcement periods, entry into, transit through, mooring, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Puget Sound or their Designated Representative.

DATES: The regulations in 33 CFR 165.1332 will be enforced for the four safety zones listed under **SUPPLEMENTARY INFORMATION** from 5 p.m. on July 4, 2018, through 1 a.m. on July 5, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management, Coast Guard; telephone 206–217–6051, *SectorPuget SoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce regulations in 33 CFR 165.1332 for the following four safety zones established for Annual Fireworks Displays within the Captain of the Port, Puget Sound Area of Responsibility. These regulations will be enforced from 5 p.m. on July 4, 2018, through 1 a.m. on July 5, 2018, at the following locations:

Event name	Location	Latitude	Longitude
Tacoma Freedom Fair	Commencement Bay	47°17.103′ N	122°28.410′ W.
Friday Harbor Independence	Friday Harbor	48°32.255′ N	123°0.654.033′ W.
Three Tree Point Community Fireworks	Three Tree Point	47°27.033′ N	122°23.15′ W.
Seattle Seafair	Lake Union	47°38.418′ N	122°20.111′ W.

The special requirements listed in 33 CFR 165.1332(b) apply to the activation and enforcement of these safety zones. All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or their Designated Representative by contacting the Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) on VHF Ch 13 or Ch 16 or via telephone at (206) 217–6002. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 165.1332 and 5 U.S.C. 552 (a). In addition to the publication of this document in the

Federal Register, the Coast Guard will provide the maritime community with extensive advanced notification of enforcement of these safety zones via the Local Notice to Mariners.

Dated: June 19, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2018–13518 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP55

Medical Care in Foreign Countries and Filing for Reimbursement for Community Care Not Previously Authorized by VA

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with no changes, a proposed rule amending its medical regulations related to hospital care and medical services in foreign countries. We simplified and clarified the scope of these regulations, address medical services provided to eligible veterans in the Republic of the Philippines, and removed provisions related to grants to the Republic of the Philippines that are no longer supported by statutory authority. VA also amends its medical regulations related to filing claims for reimbursement of medical expenses incurred for VA care not previously authorized. We provided a 60-day period to receive comments from the public on the proposed changes, and received no comments. VA adopts the proposed rule as final, with no changes.

DATES: This final rule is effective July 25, 2018.

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director, Policy and Planning, Office of Community Care (10D1A1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (303) 372–4629. (This is not a toll-free number) or *Joseph.Duran2@va.gov.*

SUPPLEMENTARY INFORMATION: Section 1724 of title 38 United States Code (U.S.C.) prohibits VA from furnishing hospital care or medical services outside any State except under specific circumstances. VA is authorized under 38 U.S.C. 1724(b)(1) to furnish care and services to an eligible veteran outside any State if VA ''determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.'' VA furnishes health care to eligible veterans in the Republic of the Philippines under this authority. In addition, 38 U.S.C. 1724(c) provides that ''within the limits'' of the Veterans Memorial Medical Center at Manila, Republic of the Philippines, VA may enter into contracts to furnish necessary hospital care to a veteran for any non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care. VA may also operate an outpatient clinic in the Republic of the Philippines to furnish necessary medical services to a veteran who has a service-connected disability. 38 U.S.C. 1724(e). Several sections of title 38 Code of Federal Regulations (CFR) part 17 address VA's authority to provide for hospital care and medical services for eligible veterans outside the United States, as well as submission of claims for reimbursement for services obtained from community care providers outside the United States.

On January 31, 2018, VA proposed to revise or amend these regulations to consolidate similar content, clarify provisions, and ensure that these regulations reflect current VA practice and statutory authority. (83 FR 4454). We proposed simplifying language in § 17.35 to make it easier to understand, adding a new paragraph (b) to address hospital care and outpatient services provided to eligible veterans in the Republic of the Philippines as authorized in 38 U.S.C. 1724, and paragraph (c) to provide guidance on which sections of part 17 apply to claims for payment or reimbursement of services not previously authorized by the Foreign Medical Program. We proposed amending § 17.125 which focuses on filing claims. We proposed stating that in those cases where VA payment for such services has not been authorized in advance, claims for payment for such health care services provided in a State should be submitted to the VA medical facility nearest to where those services were provided. We also proposed amending that section to provide specific guidance on where and how to file claims.

We proposed removing §§ 17.140 and 17.141 as the subject matter of delegation of authority would be covered by proposed revisions to § 17.125. Finally, we proposed removing §§ 17.350 through 17.370 which addressed grants to the Republic of the Philippines, as our authority to provide these grants under 38 U.S.C. 1732(b) has expired. VA still retains authority under 38 U.S.C. 1731 to assist the Republic of the Philippines in fulfilling its responsibility in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

We provided a 60-day period to the public to comment on the proposed rule. The comment period closed April 2, 2018, and we received no comments. Based on the rationale set forth in the proposed rule and in this document, VA is adopting the provisions of the proposed rule as a final rule with no changes.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final regulatory amendment does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rulemaking does not directly affect any small entities. Only VA beneficiaries and certain community care providers would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is be exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity).

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD. [For information about economically significant regulations, see Impact Analysis Procedures guide on the 00REG intranet site.]

Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment, or otherwise promulgates, a new regulation. In furtherance of this requirement, section 2(c) of E.O. 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. This final rule is not subject to the requirements of E.O. 13771 because there is no incremental cost associated with this rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This final rule has no such effect on State, local, or tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.008—Veterans Domiciliary Care; 64.011—Veterans Dental Care; 64.012—Veterans Prescription Service; 64.013—Veterans Prosthetic Appliances; 64.029—Purchase Care Program; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.043—VHA Mental Health Residential; 64.044—VHA Home Care; 64.045—VHA Outpatient Ancillary Services; 64.046—VHA Inpatient Psychiatry; 64.047—VHA Primary Care; 64.048—VHA Mental Health clinics; and 64.050—VHA Diagnostic Care.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Acting Chief of Staff, Department of Veterans Affairs, approved this document on June 19, 2018, for publication.

Dated: June 19, 2018

Consuela Benjamin,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding statutory authority citations for §§ 17.35 and 17.125 in numerical order to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

Section 17.35 is also issued under 38 U.S.C. 1724.

* * * * *

Section 17.125 is also issued under 38 U.S.C. 7304.

* * * * *

■ 2. Revise § 17.35 to read as follows:

§ 17.35 Hospital care and outpatient services in foreign countries.

(a) Under the VA Foreign Medical Program, VA may furnish hospital care and outpatient services to any veteran outside of the United States, without regard to the veteran's citizenship:

(1) If necessary for treatment of a service-connected disability, or any disability associated with and held to be aggravating a service-connected disability;

(2) If the care and services are furnished to a veteran participating in a rehabilitation program under 38 U.S.C. chapter 31 who requires care and services for the reasons enumerated in § 17.47(i)(2).

(b) Under the Foreign Medical Program, the care and services authorized under paragraph (a) of this section are available in the Republic of the Philippines to a veteran who meets the requirements of paragraph (a) of this section. VA may also provide outpatient services to a veteran referenced in paragraph (a)(1) in the VA outpatient clinic in Manila for the treatment of such veteran's service-connected conditions within the limits of the clinic. Non-service connected conditions of a veteran who has a service-connected disability may be treated within the limits of the VA outpatient clinic in Manila.

(c) Claims for payment or reimbursement for services not previously authorized by VA under this section are governed by §§ 17.123–17.127 and 17.129–17.132.

■ 3. Revise § 17.125 to read as follows:

§ 17.125 Where to file claims.

Generally, VA must preauthorize VA payment for health care services provided in the community when such care is provided in a State as that term is defined in 38 U.S.C. 101(20).

(a) Where VA payment for such services has not been authorized in advance, claims for payment for such health care services provided in a State should be submitted to the VA medical facility nearest to where those services were provided.

(b) Claims for payment for hospital care and outpatient services authorized under § 17.35(a) and provided in Canada must be submitted to Veterans Affairs Canada, Foreign Countries Operations Unit, 2323 Riverside Dr., 2nd Floor, Ottawa, Ontario, Canada K1A OP5.

(c) All other claims for payment for hospital care and outpatient services authorized under § 17.35(a) and provided outside a State must be submitted to the Foreign Medical Program, P.O. Box 469061, Denver, CO 80246–9061.

§ 17.140 [Removed]

■ 4. Remove § 17.140 and the undesignated center heading ''Delegations of Authority'', immediately preceding it.

§ 17.141 [Removed]

■ 5. Remove § 17.141.

■ 6. Add an undesignated center heading, ''Delegation of Authority'' immediately preceding § 17.142.

■ 7. Remove the undesignated center heading, ''Grants to the Republic of the Philippines'', immediately preceding § 17.350.

§§ 17.350–17.352, 17.355, 17.362–17.367, 17.369, and 17.370 [Removed]

■ 8. Remove §§ 17.350 through 17.352, 17.355, 17.362 through 17.367, 17.369, and 17.370.

[FR Doc. 2018–13487 Filed 6–22–18; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0590; FRL–9979–87—Region 10]

Air Plan Approval; AK; Interstate Transport Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submittal from the Alaska Department of Environmental Conservation (Alaska DEC) demonstrating that the SIP meets certain interstate transport requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated in 2010 for nitrogen dioxide (NO_2) and sulfur dioxide (SO_2). The EPA has determined that Alaska's SIP contains adequate provisions to ensure that air emissions in Alaska do not significantly contribute to nonattainment or interfere with the maintenance of the 2010 NO_2 and SO_2 NAAQS in any other state.

DATES: This final rule is effective July 25, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2016–0590. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Chi at (206) 553–1185, or *chi.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. Information is organized as follows:

Table of Contents

I. Background
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

On April 23, 2018, the EPA proposed to approve Alaska's March 10, 2016, SIP submission as meeting CAA section 110(a)(2)(D)(i)(I) interstate transport provisions for the 2010 NO_2 and 2010 SO_2 NAAQS (83 FR 17627). Please see our proposed rulemaking for further explanation and the basis for our finding (April 23, 2018, 83 FR 17627).

The public comment period for the EPA's proposed action ended on May 23, 2018. We received no adverse comments. There were four electronic comments submitted through *https://www.regulations.gov.* We reviewed the comments and we have determined that none are germane to this action. Therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving Alaska's March 10, 2016, SIP submission as demonstrating sources in Alaska do not significantly contribute to nonattainment, or interfere with maintenance, of the 2010 NO_2 and SO_2 NAAQS in any other state. Based on our review, we find the Alaska SIP meets the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2010 NO_2 and SO_2 NAAQS.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2018.

Chris Hladick,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Alaska

■ 2. In § 52.70, the table in paragraph (e) is amended by adding an entry for ''Interstate Transport Requirements—2010 NO_2 and 2010 SO_2 NAAQS'' after the entry for ''Infrastructure Requirements—2010 SO_2 NAAQS'' to read as follows:

§ 52.70 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
* * *	* * *	* * *	* * *	* * *
State of Alaska Air Quality Control Plan: Volume III. Appendices				
* * *	* * *	* * *	* * *	* * *
Infrastructure and Interstate Transport				
* * *	* * *	* * *	* * *	* * *
Interstate Transport Requirements—2010 NO_2 and 2010 SO_2 NAAQS.	Statewide	3/10/2016	6/25/2018, [Insert **Federal Register** citation].	Approves SIP for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2010 NO_2 and 2010 SO_2 NAAQS.
* * *	* * *	* * *	* * *	* * *

* * * * *

[FR Doc. 2018–13451 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0387; FRL–9979–78–Region 4]

Air Plan Approval; SC; Definitions and Open Burning

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the South Carolina State Implementation Plan (SIP) to revise definitions and a regulation for open burning. EPA is approving portions of SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC) on the following dates: July 18, 2011, June 17, 2013, April 10, 2014, August 8, 2014, and July 27, 2016. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule will be effective July 25, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0387. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Akers can be reached via electronic mail at *akers.brad@epa.gov* or via telephone at (404) 562–9089.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

On July 18, 2011, June 17, 2013, April 10, 2014, August 8, 2014, and July 27, 2016, SC DHEC submitted SIP revisions to EPA for approval that involve changes to South Carolina's SIP regulations to add definitions, make administrative and clarifying amendments, and correct typographical errors. These SIP submittals make changes to several air quality rules in South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.). The changes EPA is approving into the SIP in this action modify portions of Regulation 61–62.1 ''Definitions and General Requirements'' at Section I—''Definitions'' and make a revision to Regulation 61–62.2,—''Prohibition of Open Burning.''

At this time, EPA is not acting on the changes detailed in Table 1 below, which include portions of several SIP submittals that EPA has approved previously. EPA will address all remaining requested changes to the South Carolina SIP in the relevant SIP submissions as listed below in a separate action.

TABLE 1—OTHER PORTIONS OF SOUTH CAROLINA SUBMITTALS

Submittal	Regulation	Status
July 18, 2011	Regulation 61–62.1, Section II	EPA will evaluate in a separate action.
July 18, 2011	Regulation 61–62.5, Standard No. 1	EPA will evaluate in a separate action.
July 18, 2011	Regulation 61–62.5, Standard No. 2	Approved April 3, 2013 (78 FR 19994).
July 18, 2011	Regulation 61–62.3	Approved August 21, 2017 (82 FR 39537).
July 18, 2011	Regulation 61–62.5, Standard No. 4	EPA will evaluate in a separate action.
July 18, 2011	Regulation 61–62.5, Standard No. 6	Not part of the SIP.[1]
July 18, 2011	Regulation 61–62.5, Standard No. 7	Approved August 10, 2017 (82 FR 37299).
July 18, 2011	Regulation 61–62.5, Standard No. 7.1	Approved August 10, 2017 (82 FR 37299).
June 17, 2013	Regulation 61–62.1, Section II	EPA will evaluate in a separate action.
June 17, 2013	Regulation 61–62.1, Section IV	Approved August 21, 2017 (82 FR 39537).
June 17, 2013	Regulation 61–62.3	Approved August 21, 2017 (82 FR 39537).
June 17, 2013	Regulation 61–62.5, Standard No. 4	EPA will evaluate in a separate action.
June 17, 2013	Regulation 61–62.5, Standard No. 5	Approved August 16, 2017 (82 FR 38825).
April 10, 2014	Regulation 61–62.5, Standard No. 7	Partially approved August 10, 2017 (82 FR 37299).[2]
April 10, 2014	Regulation 61–62.6	Approved August 21, 2017 (82 FR 39537).
August 8, 2014	Regulation 61–62.1, Section II	EPA will evaluate in a separate action.
August 8, 2014	Regulation 61–62.1, Section III	Approved June 12, 2015 (80 FR 33413) and May 31, 2017 (82 FR 24851).
August 8, 2014	Regulation 61–62.1, Section IV	Approved August 21, 2017 (82 FR 39537).
August 8, 2014	Regulation 61–62.1, Section V	Approved August 21, 2017 (82 FR 39537).
August 8, 2014	Regulation 61–62.5, Standard No. 1	EPA will evaluate in a separate action.
August 8, 2014	Regulation 61–62.5, Standard No. 4	EPA will evaluate in a separate action.
July 27, 2016	Regulation 61–62.1, Section II	EPA will evaluate in a separate action.
July 27, 2016	Regulation 61–62.5, Standard No. 4	EPA will evaluate in a separate action.

[1] In its July 18, 2011, submittal, South Carolina is removing entirely a rule for setting alternative emission limitations at Regulation 61–62.5, Standard No. 6, ''Alternative Emission Limitation Options ('Bubble'),'' and replacing it with ''Reserved.'' This change is not presently before EPA for action because Regulation 61–62.5, Standard No. 6 is not part of the State's federally approved SIP. EPA rescinded the original approval of this regulation and disapproved a further revision to it on March 8, 1995 (60 FR 12700).

[2] EPA did not approve one portion of 61–62.5, Standard No. 7 from the April 10, 2014 submittal making revisions to certain provisions corresponding to EPA's May 1, 2007 rule regarding ethanol production facilities (72 FR 24060). EPA will evaluate this portion of the April 10, 2014 submittal in a separate action.

TABLE 1—OTHER PORTIONS OF SOUTH CAROLINA SUBMITTALS—Continued

Submittal	Regulation	Status
July 27, 2016	Regulation 61–62.5, Standard No. 5.2	EPA will evaluate in a separate action.

II. Background

On August 21, 2017, EPA published a proposed rulemaking (82 FR 39551), which accompanied a direct final rulemaking (82 FR 39537) published on the same date. The proposed rule proposed to approve the portions of South Carolina's SIP revisions described above. It also stated that if EPA received adverse comment on the direct final rule, then the Agency would withdraw the direct final rule and address public comments received in a subsequent final rule based on the proposed rule. EPA received one adverse comment letter from a Commenter regarding the portion of the direct final rule revising Regulation 61–62.1, Section I—''Definitions,'' and the revision to Regulation 61–62.2,—''Prohibition of Open Burning,'' and EPA accordingly withdrew those portions of the direct final rule proposing to approve changes to these rules on October 13, 2017 (82 FR 47636). After considering the adverse comments, EPA is now taking final action, based on the proposed rule, on the portions of South Carolina's SIP revisions modifying Regulation 61–62.1, Section I and Regulation 61–62.2, as described above.

III. Analysis of South Carolina's Submittals

A. Definitions

South Carolina is amending its list of applicable definitions related to the regulation of air quality at Regulation 61–62.1, Section I—''Definitions.'' The July 18, 2011, submittal makes several changes to the definitions as follows: (1) Adds a definition for ''CAA [Clean Air Act];'' (2) adds definitions for ''$PM_{2.5}$,'' or fine particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, and ''$PM_{2.5}$ emissions;'' (3) revises the definition of ''fugitive emissions'' to match the federal definition at 40 CFR 51.165(a)(1)(ix), 40 CFR 51.166(b)(20), and 40 CFR 52.21(b)(20); and (4) makes other clarifying and administrative edits to definitions throughout Section I, including renumbering. The June 17, 2013, submittal further revises the definitions to make several administrative edits only.

The April 10, 2014, submittal makes one revision to the definitions at Regulation 61–62.1, Section I.94.—''Volatile Organic Compound (VOC),'' to add a compound to the list of compounds determined by EPA to have negligible photochemical reactivity and therefore exempted from being considered a VOC, consistent with the federal definition. This revision in the April 10, 2014, submittal was superseded by another revision to the definition of VOC at I.94. in the August 8, 2014, submittal. This latter submittal changes the format of the definition of VOC at I.99., renumbered from I.94., to incorporate directly the list of compounds exempted by EPA from the federal regulatory definition of VOC by making an explicit reference to the definition at 40 CFR 51.100(s). The August 8, 2014, submittal also revises Section I by: (1) Adding definitions for ''Code of Federal Regulations (CFR),'' ''NAICS [North American Industrial Classification System] Code,'' and ''SIC [Standard Industrial Classification] Code''; and (2) making administrative changes throughout.

Finally, the July 27, 2016, submittal makes subsequent revisions to Section I to add the definition of ''emission'' and makes administrative edits throughout. EPA has reviewed the changes made to South Carolina's definitions and is approving the aforementioned changes to Regulation 61–62.1, Section I into the SIP pursuant to CAA section 110 because the revisions are consistent with the CAA.

B. Open Burning

South Carolina is making a minor change to its rules covering open burning at Regulation 61–62.2—''Prohibition of Open Burning.'' The April 10, 2014, submittal revises the regulation to make an administrative edit to a referenced manual only and makes no substantive changes. Specifically, the State is changing the font for the referenced manual for internal consistency. EPA has reviewed this purely administrative change made to South Carolina's rules for open burning and is approving the aforementioned change to Regulation 61–62.2 into the SIP pursuant to CAA section 110.

IV. Response to Comments

As noted above, EPA previously proposed to approve these changes, and others, to the South Carolina SIP on August 21, 2017 (82 FR 39551), along with a direct final rule published the same date (82 FR 39537). EPA received adverse comments from a Commenter regarding the portions of the direct final rule revising Regulation 61–62.1, Section I—''Definitions,'' and the revision to Regulation 61–62.2,—''Prohibition of Open Burning,'' and EPA accordingly withdrew those portions of the direct final rule on October 13, 2017 (82 FR 47636). EPA's responses to the adverse comments are below.

A. Definitions

The Commenter stated that South Carolina's definition of $PM_{2.5}$ ''should also include condensable and filterable PM.'' South Carolina's SIP, under Regulation 61–62.1, Section I, defines $PM_{2.5}$ as ''[p]articulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.'' This definition is consistent with the way EPA uses the term in federal regulations. For example, $PM_{2.5}$ is defined in the National Ambient Air Quality Standards as ''particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.'' (*See* 40 CFR 50.7, 50.13 and 50.18.) Therefore, EPA disagrees with the Commenter's implication that South Carolina's definition of $PM_{2.5}$ is not sufficient.

Although the Commenter did not mention South Carolina's definition of ''$PM_{2.5}$ emissions,'' EPA notes that the State has added this term to R. 61–62.1 and defines it as ''[f]inely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department, with concurrence of the U.S. Environmental Protection Agency.'' With regard to ''filterable PM'' as mentioned by the Commenter, this component is included in the definition as ''[f]inely divided solid . . . material'' emitted to the ambient air. With regard to ''condensable PM'' as mentioned by the Commenter, South Carolina's definition differs from the federal definition of

''direct $PM_{2.5}$ emissions'' [3] in that it does not specify the inclusion of ''condensable $PM_{2.5}$ emissions.'' However, South Carolina's definition is sufficient for purposes of the State's SIP because, as explained below, the condensable component of source $PM_{2.5}$ emissions will be included whenever a determination of a source's $PM_{2.5}$ emissions is required.

The inclusion of the condensable component in determining a source's $PM_{2.5}$ emissions is driven by the applicable source test method(s) required under a relevant rule. First, South Carolina's federally approved SIP includes emission limits for ''PM'' but does not include emission limits for ''$PM_{2.5}$.'' Therefore, ''particulate matter emissions'' (as defined in the South Carolina SIP), not ''$PM_{2.5}$ emissions,'' is the term that is relevant for the purpose of determining a source's status of compliance with applicable PM emission limits of the South Carolina SIP. Second, South Carolina's PSD rules (which apply throughout the State) and Nonattainment New Source Review rules (which do not currently apply for $PM_{2.5}$ in the State) both require sources to include the condensable portion of $PM_{2.5}$ emissions. (*See* definitions of ''Regulated NSR pollutant'' at Regulation 61–62.5, Standard No. 7(b)(44)(i)(a) and Standard No. 7.1(c)(13)(D), respectively.) [4] Third, under federal rules such as the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs), whether the condensable $PM_{2.5}$ component must be measured is dictated by the testing methods that are specified to apply under those rules. Finally, with regard to emissions inventories, EPA has provided guidance to assist states in appropriately accounting for the condensable $PM_{2.5}$ component in making annual reports of $PM_{2.5}$ emissions.[5] Moreover, the federal provisions regarding regular emissions inventory reporting at subpart A to part 51 require states to include the condensable and filterable portions of both $PM_{2.5}$ and PM_{10} as applicable in the triennial reports of annual emissions for all sources and the annual reports of larger stationary source emissions. *See* 40 CFR 51.15(a)(1)(vi)–(vii).

South Carolina's definition of ''$PM_{2.5}$'' is consistent with EPA's definition of the term. In addition, as discussed above, omitting the phrase ''condensable $PM_{2.5}$ emissions'' from South Carolina's definition of ''$PM_{2.5}$ emissions'' has no effect on the State's implementation of its $PM_{2.5}$ program because the South Carolina SIP currently has no limits on ''$PM_{2.5}$ emissions'' and because the other programs that regulate particulate matter specify the required source test methods, and those methods require measurement of the condensable component in determining a source's $PM_{2.5}$ emissions. Accordingly, EPA considers South Carolina's definitions of these terms approvable under the CAA.

B. Open Burning

The Commenter suggests that EPA cannot approve changes to South Carolina's open burning rules if the rules do not apply ''at all times.'' EPA notes that no substantive change was made to the SIP-approved rule at Regulation 61–62.2, Prohibition of Open Burning. The only change made in the April 10, 2014, submittal was a change to the font from italics to non-italics for a referenced manual within the regulation. As stated in the proposed rule (82 FR 39551, August 21, 2017), EPA proposed to approve changes to the South Carolina SIP submitted by SC DHEC. The existing text of Regulation 61–62.2 is already part of South Carolina's federally approved SIP, and only the revision to the rule (*i.e.,* the font change) was subject to comment through the proposal action. The change that was made is purely administrative in nature, and the Commenter has not raised a concern relevant to the revision. Nevertheless, EPA finds that Regulation 61–62.2 adequately prescribes the conditions under which open burning is allowed or prohibited. The only provisions of this rule related to timing are 62.2.E.6., 62.2.G.4. and 62.2.G.5., which are restrictions, not relaxations, on when open burning may be conducted in the State.

EPA received no additional comments regarding the changes to Regulation 61–62.1, Section I nor to the change made to Regulation 61–62.2. The public comments received are located in the Docket for this final action at *www.regulations.gov.*

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61–62.1, Section I—''Definitions,'' effective June 24, 2016, which revises definitions applicable to the SIP, and Regulation 61–62.2, ''Prohibition of Open Burning,'' effective December 27, 2013, which revises formatting for consistency. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State's implementation plan, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[6]

VI. Final Action

This is a final action based on the proposed rule (82 FR 39551). For the reasons discussed above, EPA is approving the aforementioned changes to the South Carolina SIP, submitted on July 18, 2011, June 17, 2013, April 10, 2014, August 8, 2014, and July 27, 2016, because they are consistent with the CAA and federal regulations.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

[3] Under the federal definition, ''direct $PM_{2.5}$ emissions'' means solid or liquid particles emitted directly from an air emissions source or activity, or reaction products of gases emitted directly from an air emissions source or activity which form particulate matter as they reach ambient temperatures. Direct $PM_{2.5}$ emissions include filterable and condensable $PM_{2.5}$ emissions composed of elemental carbon, directly emitted organic carbon, directly emitted sulfate, directly emitted nitrate, and other organic or inorganic particles that exist or form through reactions as emissions reach ambient temperatures (including but not limited to crustal material, metals, and sea salt). 40 CFR 51.1000.

[4] The specific adoption of condensable $PM_{2.5}$ as a regulated NSR pollutant was included in a March 14, 2011, SIP revision, which was approved on June 23, 2011 (76 FR 36875), and corrected for Standard No. 7 on August 10, 2017 (82 FR 37299).

[5] *See* ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–003, July 2017.

[6] 62 FR 27968 (May 22, 1997).

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Volatile organic compounds.

Dated: June 12, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

■ 2. In § 52.2120, the table in paragraph (c) is amended by revising under ''Regulation No. 62.1'' the entry ''Section I'' and the entry ''Regulation No. 62.2'' to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
Section I	Definitions	6/24/2016	6/25/2018, [insert **Federal Register** citation].	
* *	*	*	* *	*
Regulation No. 62.2	Prohibition of Open Burning	12/27/2013	6/25/2018, [insert **Federal Register** citation].	
* *	*	*	* *	*

* * * * *

[FR Doc. 2018–13450 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0385; FRL–9979–80—Region 4]

Air Plan Approval; SC: Multiple Revisions to Air Pollution Control Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the South Carolina State Implementation Plan (SIP) to revise miscellaneous rules covering air pollution control standards. EPA is approving portions of SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule will be effective July 25, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0385. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Wong can also be reached via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016, SC DHEC submitted SIP revisions to EPA for approval that involve changes to South Carolina's SIP regulations to make administrative and clarifying amendments, revise regulations, and correct typographical errors. These SIP submittals make changes to several air quality rules in the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.). The changes EPA is approving into the SIP in this action modify portions of Regulation 61–62.5, Standard No. 1—*Emissions From Fuel Burning Operations* and Regulation 61–62.5, Standard No. 4—*Emissions From Process Industries.* EPA is not acting on other changes that are included in these submittals. EPA will act on those changes in separate actions.

II. Analysis of South Carolina's Submittals

A. Regulation 61–62.5, Standard No. 1—Emissions From Fuel Burning Operations

South Carolina is amending multiple sections at Regulation 61–62.5, Standard No. 1—*Emissions from Fuel Burning Operations.* The August 8, 2014, submittal makes the following changes: (1) Clarifies sulfur dioxide (SO_2) maximum allowable discharge limits at Section III—*Sulfur Dioxide Emissions;* and (2) makes administrative and clarifying edits throughout Standard No. 1. The revision in Section III—*Sulfur Dioxide Emissions* streamlines the requirement by setting a maximum SO_2 limit of 2.3 pounds per million British thermal units (lb/MMBtu) from fuel burning operations. The current approved Standard sets two SO_2 limits, 2.3 lb/MMBtu or 3.5 lb/MMBtu across various classification categories. Therefore, this revision would streamline the rule to the lower of the two limits allowed for such sources. Lastly, this submittal makes administrative and clarifying edits in Section I—*Visible Emissions,*[1] Section II—*Particulate Matter Emissions,* Section III—*Sulfur Dioxide Emissions,* Section IV—*Opacity Monitoring Requirements,*[2] and Section VI—*Periodic Testing.*

The November 4, 2016, submittal makes typographical corrections under Section IV—*Opacity Reporting Requirements.*[3] EPA has reviewed the aforementioned changes to South Carolina's Regulation 61–62.5, Standard No. 1 and is approving the changes into the SIP pursuant to CAA section 110.

B. Regulation 61–62.5, Standard No. 4—Emissions From Process Industries

South Carolina is amending multiple sections at Regulation 61–62.5, Standard No. 4—*Emissions from Process Industries.* The October 1, 2007, submittal removes Section IV—*Portland Cement Manufacturing* from the SIP. This rule contains particulate matter (PM) emission limits for cement kilns with a production rate of up to 120 tons per hour and it establishes a 20 percent allowable stack opacity limit for certain components of Portland cement plants. SC DHEC states that there are no Portland cement plants operating at 120 tons per hour or less in the State because it is not economically feasible. SC DHEC asserts that removing this rule would not create a relaxation as there are no applicable sources subject to this regulation. Additionally, should such a source start operation, it would be subject to more stringent PM emissions limits in New Source Performance Standards (NSPS) subpart F *(Standards of Performance for Portland Cement Plants).*

The July 18, 2011, submittal amends Section V—*Cotton Gins* by removing established specific emission limits based on production rate (output) of bales of cotton per hour and replacing that with specific, measurable performance requirements and operating standards.[4] SC DHEC considered CAA section 110(l) in

[1] EPA is taking final action to approve the revisions in Section I, with a state effective date of June 27, 2014. EPA has two revisions pertaining to subparagraph C ''Special Provisions'' submitted by the State on July 18, 2011, and August 12, 2015, with state effective dates of May 27, 2011 and June 26, 2015, respectively, and will address these changes in a separate action.

[2] EPA is taking final action to approve the revisions in Section IV, with the exception of subparagraph B ''Continuous Opacity Monitor Reporting Requirements,'' submitted by the State on August 8, 2014 with a state effective date of June 27, 2014. EPA will address revisions in subparagraph B, also in an August 12, 2015, submittal, in a separate action.

[3] The November 4, 2016, submittal with a state effective date of September 23, 2016, would supersede the 2014 revision with the exception of subparagraph B as mentioned in footnote #2.

[4] SC DHEC's July 18, 2011 submittal makes a change to Section XII, subparagraph B regarding Total Reduced Solids (TRS). The August 8, 2014, submittal would supersede the 2011 revision.

making this change. SC DEHC explains that the rule development is based on best management practices outlined in the United States Department of Agriculture's *Cotton Ginners Handbook,* staff experience with effective emission reduction techniques, the review of other state regulations on cotton gins, and several discussions with the affected industry. The new rule assures a greater degree of control of these emissions than that which would result from the existing process weight rate curve and also allows the State to more effectively determine compliance. The revised rule requires enforceable control of emissions from specific point sources in the ginning process rather than an allowable emission rate, and it establishes requirements to minimize fugitive emissions from various sources at cotton ginning facilities. The revised rule also sets applicable requirements for good housekeeping practices in the gin yard, weekly monitoring of control efficiency, recordkeeping, and reporting. The revised regulation will provide for improved emissions control through practicably enforceable control of emissions, use of state of the art pollution control devices, and minimization of fugitive emissions. The June 17, 2013, submittal makes a subsequent typographical correction to Section V.

The August 8, 2014, submittal makes the following changes: (1) Removes a PM emissions limit at Section III—*Kraft Pulp and Paper Manufacturing;* (2) revises the frequency required for reporting excess emissions at Section XI—*Total Reduced Sulfur Emissions of Kraft Pulp Mills;* (3) removes the periodic testing requirement for TRS at Section XII—Periodic Testing; and (4) makes administrative and clarifying edits throughout Standard No. 4. At Section III, the submittal removes the table column ''Maximum Allowable Emissions of PM in pounds/equivalent Ton of Air Dried, Unbleached Pulp Produced'' and retains the ''Maximum Allowable Stack Opacity.'' SC DEHC asserts that this will not result in a relaxation of emission limits because the subject sources are covered under more stringent PM limits under the NESHAP (subpart S—*National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry*). Additionally, the word ''opacity'' replaces ''rate of emissions.''

At Section XI, the August 8, 2014, submittal changes the required excess emissions reporting frequency in subparagraph D.3. from quarterly to semi-annual. SC DHEC considered CAA sections 110(l) and 193 in making the change and asserts changing reporting from quarterly to semi-annual will not affect the level of emissions or compromise the national ambient air quality standards. SC DHEC cites to several Federal and state regulations that address excess emissions reporting, including NSPS subpart BB *Standards of Performance for Kraft Pulp Mills;* South Carolina Regulation 61–62.5, Standard No. 4 Section XI(D)(3) *Total Reduced Sulfur Emissions of Kraft Pulp Mills;* South Carolina Regulations 61–62.1, Section II(J)(2) *Permit Requirements;* and South Carolina Regulation 61–62.70 *Title V Operating Permit Program.*

At Section XII, the August 8, 2014, submittal removes the periodic testing requirement for TRS. SC DHEC states that most sources are required to test under NSPS or NESHAP rules. The few sources that are not required to test have enough historical test data to develop an allowable operating range which can be handled during the permitting process. Additionally, the S.C. Pollution Control Act (48–1–50, Powers of the Department) makes provision for SC DHEC to ask for a source test and permits are often drafted with language allowing SC DEHC to ask for source tests. Therefore, the requirements will be no less stringent than what is allowed through current regulatory and permitting authority to review testing requirements.

Lastly, the August 8, 2014, submittal makes minor typographical, renumbering, and clarifying edits to Standard No. 4 in Section II—*Sulfuric Acid Manufacturing,* Section V—*Cotton Gins,* Section XI—*Total Reduced Sulfur Emissions of Kraft Pulp Mills,* and Section XII—*Periodic Testing.*

The July 27, 2016, submittal changes Section VIII—*Other Manufacturing* by excluding Kraft Pulp and Paper Manufacturing facilities. This Section sets PM emission limits for source categories not specified elsewhere in Standard No. 4. The change to exclude Kraft Pulp and Paper Manufacturing facilities aligns with the August 8, 2014, revision, as previously discussed in this notice. The submittal also makes minor typographical, renumbering, and clarifying edits to Section XII—*Periodic Testing.*

EPA has reviewed the aforementioned changes to South Carolina's Regulation 61–62.5, Standard No. 4 and is approving the revisions into the SIP pursuant to CAA section 110, and where applicable CAA section 193.

III. Response to Comments

EPA previously proposed to approve these changes, and others, to the South Carolina SIP on August 16, 2017 (82 FR 38874) along with a direct final rule published the same date (82 FR 38828). The proposed rule stated that if EPA received adverse comment on the direct final rule, the direct final rule would be withdrawn and all public comments received would be addressed in a subsequent final rule based on the proposed rule. EPA received one adverse comment from a Commenter regarding the portion of the SIP submittals that EPA is addressing in this action, specifically regarding revision of Regulation 61–62.5, Standard No. 4—*Emissions from Process Industries,* Section IV—*Portland Cement Manufacturing.* EPA accordingly withdrew those portions of the direct final rule on October 13, 2017 (82 FR 47640).[5] EPA has considered the adverse comment received and is now approving the change to Regulation 61–62.5, Section IV.

Comment: The Commenter states EPA needs to ensure that no mothballed facilities would be able to restart under the new standard. The Commenter also states that mothballed facilities may still maintain operating permits and may restart under these permits without becoming new sources and subject to NSPS requirements.

Response: EPA notes that operating permits are not issued in perpetuity. A source must renew the permit to continue operations and is required to operate within the emissions limitations established in the permit. If operations resume at a source that has ceased operations for more than two[6] years, that source is subject to new source requirements, regardless of whether that source had previously indicated that it would cease operations permanently. Additionally, SC DHEC provided a letter on February 22, 2018,[7] stating there are no mothballed sources below the 120 tons per hour level anywhere in the State.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61–62.5, Standard No. 1 Section I—*Visible Emissions,* Section II—*Particulate Matter Emissions,*

[5] The Commenter also made a comment on Regulation 61–62.5, Standard No. 1—*Emissions From Fuel Burning Operations,* subparagraph C of Section I—*Visible Emissions.* EPA will address that in a separate action.

[6] U.S. EPA Applicability Determination Index for NSPS on August 29, 1990, for Florida Portland Cement. Document is available in the Docket.

[7] Letter is located in the Federal Docket.

Section III—*Sulfur Dioxide Emissions,* Section VI—*Periodic Testing,* state effective June 27, 2014, and Section IV—*Opacity Monitoring Requirements* state effective September 23, 2016, which makes administrative and clarifying changes for consistency, removes log reporting requirements, revises monitoring requirements, and Regulation 61–62.5, Standard No. 4 Section II—*Sulfuric Acid Manufacturing,* Section III—*Kraft Pulp and Paper Manufacturing,* Section V—*Cotton Gins,* Section XI—*Total Reduced Sulfur Emissions of Kraft Pulp Mills* state effective June 27, 2014, and Section VIII—*Other Manufacturing,* Section XII—*Periodic Testing* state effective June 24, 2016, which makes administrative and clarifying changes for consistency, removes specific emission rates, and reporting requirements. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated in the next update to the SIP compilation.[8]

V. Final Action

This is a final action based on the proposed rule (82 FR 38874). For the reasons discussed above, EPA is approving the aforementioned changes to the South Carolina SIP, submitted on October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, July 27, 2016, and November 4, 2016, because they are consistent with the CAA and federal regulations.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 12, 2018.

Onis ''Trey'' Glenn III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

■ 2. Section 52.2120, paragraph (c) is amended by:

■ a. Revising the entries under Regulation No. 62.5, *Standard No. 1,* for ''Section I,'' ''Section II,'' ''Section III,'' ''Section IV,'' and ''Section VI;''

[8] 62 FR 27968 (May 22, 1997).

■ b. Revising the entries under Regulation No. 62.5, *Standard No. 4,* for ''Section II,'' ''Section III,'' ''Section V,'' ''Section VIII,'' ''Section XI,'' and ''Section XII''; and

■ c. Removing the entry under Regulation No. 62.5, *Standard No. 4,* for ''Section IV''

The revisions read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Regulation No. 62.5	Air Pollution Control Standards.			
Standard No. 1	Emissions from Fuel Burning Operations.			
Section I	Visible Emissions	6/27/2014	6/25/2018, [Insert citation of publication].	Except for subparagraph C ''Special Provisions,'' including those versions submitted by the State on July 18, 2011 and August 12, 2015. Therefore, subparagraph C retains the version that was state effective October 26, 2001.
Section II	Particulate Matter Emissions	6/27/2014	6/25/2018, [Insert citation of publication].	
Section III	Sulfur Dioxide Emissions	6/27/2014	6/25/2018, [Insert citation of publication].	
Section IV	Opacity Monitoring Requirements	9/23/2016	6/25/2018, [Insert citation of publication].	Except subparagraph B ''Continuous Opacity Monitor Reporting Requirements,'' including those versions submitted by the State on August 8, 2014 and August 12, 2015. Therefore, subparagraph B retains the version that was state effective September 28, 2012.
*	*	*	*	*
Section VI	Periodic Testing	6/27/2014	6/25/2018, [Insert citation of publication].	
*	*	*	*	*
Standard No. 4	Emissions From Process Industries.			
*	*	*	*	*
Section II	Sulfuric Acid Manufacturing	6/27/2014	6/25/2018, [Insert citation of publication].	
Section III	Kraft Pulp and Paper Manufacturing Plants	6/27/2014	6/25/2018, [Insert citation of publication].	
Section V	Cotton Gins	6/27/2014	6/25/2018, [Insert citation of publication].	
*	*	*	*	*
Section VIII	Other Manufacturing	6/24/2016	6/25/2018, [Insert citation of publication].	
*	*	*	*	*
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills.	6/27/2014	6/25/2018, [Insert citation of publication].	
Section XII	Periodic Testing	6/24/2016	6/25/2018, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2018–13446 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R01–OAR–2018–0069; FRL–9979–29–Region 1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Hampshire; Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing its action to codify into the Code of Federal Regulations (CFR) the delegation of authority to implement and enforce the Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or before October 14, 2010 (SSI Federal Plan) to the New Hampshire Department of Environmental Services (NH DES). The SSI Federal Plan addresses the implementation and enforcement of the emission guidelines applicable to existing SSI units located in areas not covered by an approved and currently effective state plan. The SSI Federal Plan imposes emission limits

and other control requirements for existing affected SSI facilities which will reduce designated pollutants. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on July 25, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2018–0069. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxic, & Indoor Programs Unit, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square—Suite 100, Mail Code: OEP05–2, Boston, MA, 02109–3912, tel. (617) 918–1287, email *bird.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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II. What was submitted by the NH DES and how did the EPA respond?
III. What comments were received in response to the EPA's proposed action?
IV. What is the EPA's conclusion?
V. Statutory and Executive Order Reviews

I. What action is the EPA taking today?

The EPA is finalizing through codification of regulatory text in 40 CFR part 62, subpart EE the delegation of authority to implement and enforce the SSI Federal Plan to the NH DES. A Memorandum of Agreement (MoA), which became effective on December 22, 2017, serves as the transfer mechanism for the implementation and enforcement authority to NH DES. However, nothing in this action, nor in the MoA, shall be construed to prohibit the EPA from enforcing the SSI Federal Plan.

II. What was submitted by the NH DES and how did the EPA respond?

On November 14, 2017, the NH DES submitted to the EPA a request for delegation of authority from the EPA to implement and enforce the SSI Federal Plan. The EPA prepared the MoA that defined the policies, responsibilities, and procedures by which the SSI Federal Plan would be administered by both the NH DES and the EPA, pursuant to 40 CFR part 62, subpart LLL for SSI units. Condition I.E. of the MoA states, ''The delegation of the Federal Plan to New Hampshire shall become effective upon authorized signature of both the NH DES and the EPA.'' [1] On December 18, 2017, Mr. Robert R. Scott, Commissioner of NH DES signed the MoA, and on December 22, 2017, Mr. Ken Moraff, as Acting Regional Administrator of EPA Region 1 signed the MoA. The MoA became effective upon signature by Mr. Ken Moraff on December 22, 2017.

III. What comments were received in response to the EPA's proposed action?

The EPA published a proposed rulemaking concerning this action on March 16, 2018. *See* 83 FR 11652. In response to the EPA's March 16, 2018 proposed rulemaking action, we received a number of anonymous comments on the proposed action that were not germane to the proposal and/or did not specify what changes should be made to the NH DES delegation of the SSI Federal Plan. Many of the comments identified and pertained to issues that are outside the scope of, and do not reference, the proposed action. Therefore, EPA will not provide any further specific responses to these comments.

EPA did however receive one comment which could be construed to refer to the proposed rulemaking for the NH DES SSI Federal Plan delegation.

Comment: A single anonymous comment, much of which included information that was not germane to EPA's proposed rulemaking for the NH DES SSI Federal Plan delegation, also stated that ''The Rule created potentially unduly burdensome requirements [sic] Given the extremely limited pollutant loadings and relative high costs, according to EPA's own analysis, these requirements appear to be ripe for substantial reduction or elimination. this [sic] entire subcategory would be excluded by rule given the de minimis amount of pollution.''

Response: If ''The Rule'' in the submitted comment refers to EPA's March 16, 2018 (83 FR 11652) proposed rulemaking, EPA disagrees with the comment because this action merely codifies the delegation of an existing Federal requirement to the State and does not impose additional requirements beyond those imposed by existing Federal regulations.

IV. What is the EPA's conclusion?

For the reasons described above and in EPA's proposal, the EPA is finalizing its action to codify into the CFR the delegation of authority to implement and enforce the SSI Federal Plan to NH DES. EPA will codify the delegation and reference to the MoA at 40 CFR part 62 subpart EE, thus satisfying the procedural requirements outlined in EPA's Delegation Manual.[2]

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a state plan submission that complies with the provisions of the CAA section 111(d) and 129(b)(2) and applicable Federal regulations. 42 U.S.C. 7411(d) and 7429(b)(2); 40 CFR 62.02(a). Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves a state delegation request as meeting Federal requirements and does not impose additional requirements beyond those already imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions

[1] See the Memorandum of Agreement Between New Hampshire Department of Environmental Services and The United States Environmental Protection Agency, Region 1 Sewage Sludge Incinerators Federal Plan Delegation. The reader may refer to it in the docket for this rulemaking at *www.regulations.gov* (see Docket ID Number EPA–R01–OAR–2018–0069).

[2] Section 7–139 of the EPA's Delegation Manual is entitled ''Implementation and Enforcement of 111(d)(2) and 111(d)/129(b)(3) Federal Plans'' and the reader may refer to it in the docket for this rulemaking at *www.regulations.gov* (see Docket ID Number EPA–R01–OAR–2018–0069).

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rulemaking does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: June 18, 2018.

Alexandra Dunn,

Regional Administrator, EPA Region 1.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EE—New Hampshire

■ 2. Add an undesignated center heading and § 62.7465 to subpart EE to read as follows:

Air Emissions From Existing Sewage Sludge Incineration Units

§ 62.7465 Identification of plan—delegation of authority.

(a) Letter from the New Hampshire Department of Environmental Services (NH DES), submitted November 14, 2017, requested delegation of authority from the EPA to implement and enforce the Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or before October 14, 2010 (SSI Federal Plan). The SSI Federal Plan will be administered by both the NH DES and the EPA pursuant to 40 CFR part 62 subpart LLL.

(b) *Identification of sources.* The SSI Federal Plan applies to owners or operators of existing facilities that meet all three of the following criteria:

(1) The SSI unit(s) commenced construction on or before October 14, 2010;

(2) The SSI unit(s) meets the definition of an SSI unit as defined in § 62.16045; and

(3) The SSI unit(s) is not exempt under § 62.15860.

(c) On December 18, 2017 Mr. Robert R. Scott, Commissioner of NH DES, signed the Memorandum of Agreement (MoA) which defines the policies, responsibilities, and procedures by which the SSI Federal Plan will be administered. On December 22, 2017, Mr. Ken Moraff, as Acting Regional Administrator of EPA Region 1, signed the MoA.

(d) The delegation is fully effective as of December 22, 2017.

[FR Doc. 2018–13552 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

RIN 0648–XG306

Extension of Opening Date for Subsistence Taking of Northern Fur Seals on the Pribilof Islands; St. George Island

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

ACTION: Temporary rule; extension of opening date.

SUMMARY: NMFS is extending the opening date of the subsistence use season of the Eastern Pacific stock of northern fur seals (*Callorhinus ursinus*) by opening the season on June 20, 2018, in response to a request from the Traditional Council of St. George Island, Tribal Government. The subsistence use regulations at 50 CFR 216.72(a) authorize the extension of the northern fur seal harvest earlier than the scheduled opening date of June 23. The opening of the season three days earlier is intended to provide meat for the community of St. George Island in response to the unavailability of food in the community store due to unforeseen flight cancellations and the complete consumption of fur seal meat from harvests in 2017.

DATES: The opening for the sub-adult male fur seal harvest is effective at 12:01 a.m., Alaska local time, June 20, 2018, until 11:59 p.m., Alaska local time, August 8, 2018, per the regulations at 50 CFR 216.72(d)(1).

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907–271–5117, *michael.williams@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

St. George Island is a remote island located in the Bering Sea populated by Alaska Native residents who rely upon marine mammals as a major food source and cornerstone of their culture. Regulations issued under the authority of the Fur Seal Act authorize Pribilovians to take fur seals on the Pribilof Islands if such taking is for subsistence uses and not accomplished in a wasteful manner (50 CFR 216.71).

The residents of St. George Island are currently authorized by regulations under the FSA Section 105 (16 U.S.C. 1155) to harvest male fur seals 124.5

centimeters or less in length for subsistence use each year from June 23 to August 8. The regulation at 50 CFR 216.72(a) includes the provision that the harvests of seals on St. Paul and St. George Islands shall be treated independently for the purposes of this section. Any suspension, termination, or extension of the harvest is applicable only to the island for which it is issued. The Traditional Council of St. George Island, Tribal Government (Traditional Council) has requested that NMFS extend the opening date of the subsistence use season for sub-adult male fur seals earlier than the scheduled opening date of June 23 (50 CFR 216.72(d)(1)). The extension of the opening date is intended to respond to this emergency request. The extension will ensure additional days to conduct the subsistence harvest in order provide meat for the community of St. George Island in response to the unavailability of food in the community store due to unforeseen flight cancellations and the complete consumption of fur seal meat from harvests in 2017. NMFS has determined that the extension of the harvest to an earlier date is permissible and should be authorized.

On July 31, 1992 (57 FR 33900) NMFS issued a final rule removing the option to extend the harvest past August 8, but authorized the harvest to start on June 23 rather than June 30. NMFS anticipated in the notice (57 FR 33901, July 31, 1992) that there would be no adverse impacts on the population from an earlier June harvest because sub-adult males dominate the harvest areas on the hauling grounds at this time of year, and few if any female seals have returned to St. George Island in June. In extending the opening date for the 2018 season, NMFS does not expect that female fur seals would be accidentally killed during the few early days of the sub-adult male harvest, and there is no evidence from prior commercial or subsistence harvests that females were accidentally taken prior to mid-July (NMFS unpublished data). The subsistence use suspension and termination provisions based on female mortality remain in effect (50 CFR 216.72(f)(1)(iv) & (g)(3)).

All other regulatory controls applicable to the subsistence use of sub-adult males on St. George Island at 50 CFR 216.72(d)(1)–(5) still apply, including the total number of fur seals (500) that may be harvested per year on St. George Island (82 FR 39044, August 17, 2017).

Classification

This action responds to the urgent subsistence need of the Pribilovians on St. George Island. The Assistant Administrator for Fisheries, NOAA, (AA), determined that this rule is consistent with the Fur Seal Act (16 U.S.C. 1155) and regulations (50 CFR 216.71–216.74). The 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 extension of the opening date is unnecessary because the rule establishing the extension of the opening procedures has already been subject to notice and comment, and all that remains is to notify the public of the extension of the opening date. Additionally, allowing for prior notice and opportunity for public comment for this extension of the opening date is contrary to the public interest because it requires time, thus delaying the removal of a restriction and thereby reducing socio-economic benefits to community of St. George Island. In the absence of this action, the residents of St. George Island would be prohibited from harvesting fur seals currently necessary to subsistence uses due to unforeseen events prior to the scheduled opening of the subsistence use season. For the aforementioned reasons, it is impracticable and contrary to the public interest to delay for 30 days the effective date of this action, and, accordingly, 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) and to make this action effective on the date specified herein. This action is authorized by 50 CFR 216.72(a) and is exempt from review under Executive Order 12866. Because prior notice and opportunity for public comment are waived under 5 U.S.C. 553, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are inapplicable.

Authority: 16 U.S.C. 1155(a).

Dated: June 20, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018–13576 Filed 6–20–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180320301–8551–02]

RIN 0648–XG121

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this rule to implement annual management measures and catch limits for the northern subpopulation of Pacific sardine, for the fishing year lasting from July 1, 2018, through June 30, 2019. This action includes a prohibition on directed commercial fishing for Pacific sardine off the U.S. West Coast, except in the live bait, tribal, or minor directed fisheries. This action is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective July 1, 2018, through June 30, 2019.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, *joshua.lindsay@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the West Coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The FMP and its implementing regulations require NMFS to set annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the harvest guideline (HG) control rule, which, in conjunction with the overfishing limit (OFL) and acceptable biological catch (ABC) rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Annual specifications published in the **Federal Register** establish these catch limits and management measures for each Pacific sardine fishing year.

The purpose of this final rule is to implement the annual catch levels and reference points for the 2018–2019 fishing year. This final rule adopts, without changes, the catch levels and

restrictions that NMFS proposed in the rule published on May 25, 2018 (83 FR 24269), including the OFL and ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S. EEZ off the U.S. West Coast. The proposed rule for this action included additional background on specifications and the details of how the Pacific Fishery Management Council (Council) derived its recommended specifications for Pacific sardine. Those details are not repeated here. For additional information, please refer to the proposed rule for this action.

TABLE 1—REFERENCE POINTS FOR THE 2018–2019 PACIFIC SARDINE FISHING YEAR IN METRIC TONS

Biomass estimate	OFL	ABC	HG	ACL	Tribal set-aside
52,065	11,324	9,436	0	7,000	800

This final rule implements an OFL of 11,324 metric tons (mt), an ABC of 9,436 mt, and a prohibition on Pacific sardine catch, unless it is harvested as part of the live bait, tribal, or minor directed fisheries, or as incidental catch in other fisheries (Table 1). Additionally, this rule implements an ACL of 7,000 mt, as well as restrictions on the incidental catch of Pacific sardine by other fisheries.

The incidental catch of Pacific sardine in other CPS fisheries will be managed with the following automatic inseason actions to reduce the potential for both targeting and discard of Pacific sardine in these fisheries:

- An incidental per landing by weight allowance of 40 percent Pacific sardine in non-treaty CPS fisheries until a total of 2,500 mt of Pacific sardine has been landed; and
- A reduction of the incidental per landing allowance to 20 percent for the remainder of the 2018–2019 fishing year once 2,500 mt Pacific sardine has been landed.

Pacific sardine is known to comingle with other CPS stocks; thus, these incidental allowances are established to allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine. Additionally, this final rule implements an incidental per landing allowance of up to 2 mt per trip in non-CPS fisheries.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** to announce when catch reaches the incidental limits as well as any changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

As explained in the proposed rule, the Quinault Indian Nation requested a set-aside for tribal harvest of 800 mt (the same amount that was requested and approved for the 2017–2018 fishing season). Consistent with this request, NMFS is setting aside 800 mt of the 2018–2019 ACL for tribal harvest (Table 1).

At the April 2018 meeting, the Council voted in support of two exempted fishing permit (EFP) proposals requesting an exemption from the prohibition to directly harvest Pacific sardine. The ACL implemented in this action accounts for the potential of NMFS approval of up to 610 mt of the ACL to be harvested for EFP activities.

Comments and Responses

On May 25, 2018, NMFS published a proposed rule for this action and solicited public comments (83 FR 24269), with a public comment period that ended on June 11, 2018. NMFS received one comment letter from the environmental advocacy organization Oceana during the comment period. After consideration of the public comment, no changes were made from the proposed rule. NMFS summarizes and responds to the comment letter below.

Comment 1: Oceana supported the prohibition on non-tribal directed commercial sardine fishing, but opposed the proposed ACL level of 7,000 mt. Oceana instead requested that NMFS set an ACL of no more than 2,000 mt. Oceana commented that the proposed ACL of 7,000 mt is excessive and not commensurate with the decline in sardine biomass and that NMFS should reduce the ACL to 2,000 mt.

Response: NMFS disagrees that it is necessary to set the ACL lower than 7,000 mt. The ACL should be viewed in the context of the approved northern subpopulation of Pacific Sardine OFL (11,324 mt) and ABC (9,436 mt), which has been reduced from the OFL to account for scientific uncertainty. The Council's SSC endorsed the OFL and ABC, which are derived from control rules in the FMP, as the best scientific information available. The CPS FMP defines overfishing as catch exceeding the OFL. By definition, if catch approaches either the ACL or ABC, which are set below the OFL, overfishing would not be occurring. This rule conservatively limits harvest levels by all sources with an ACL of 7,000 mt, which is below both the OFL and ABC. All incidental catch, live bait, minor directed, and tribal harvest of sardine are managed to stay at or below the ACL. Additionally, as a direct result of the decline in the estimated biomass from the last fishing year, the OFL and ABC implemented through this action are respectively approximately 33 and 40 percent lower than those implemented last year.

Small pelagic species, such as sardine, undergo wide natural fluctuations in abundance related to environmental conditions, even in the absence of fishing pressure. Given that environmental conditions are a strong driver for small pelagic species biomass, and the fact that 7,000 mt is only about 13 percent of the 2018 biomass estimate, it is highly unlikely that reducing the ACL from 7,000 mt to 2,000 mt would measurably contribute to the potential for Pacific sardine abundance to increase. Even in the absence of any fishing mortality, unfavorable environmental conditions could keep the sardine population at a low level. Based on the recent stock assessments and NMFS research, low recent recruitment (*i.e.,* the number of young fish maturing into the spawning population) is the primary cause of the current downward trend in overall population size. Research suggests recruitment is strongly related to environmental conditions, particularly large-scale oceanographic phenomena.

Comment 2: Oceana also commented that the OFL is not based on the best scientific information available because Oceana construes new research from NMFS Southwest Fisheries Science Center (SWFSC) as demonstrating that the temperature-recruitment relationship based on data from the California Cooperative Oceanic Fisheries Investigations (CalCOFI) survey used to inform the OFL is no longer applicable.

Response: NMFS is committed to using the best scientific information available, and the SWFSC is continuing research to improve our understanding of the relationship between Pacific Sardine productivity and environmental conditions. The new research referenced by Oceana is still under development, has not been formally reviewed, and therefore is not yet a valid rationale to cease using CalCOFI data to gauge the temperature-recruitment relationship. At this time, the CalCOFI-based temperature relationship is still the best scientific information available science to set the OFL.

Comment 3: In addition to commenting on the proposed rule, Oceana's comment requested reconsideration of various aspects of sardine management that are not considered in this action, including changing the start date of the fishery, revision of the Minimum Stock Size Threshold value, and various modifications to the OFL, ABC and HG control rules.

Response: Changes to the management framework of Pacific sardine and to the sardine harvest control rules are set in the CPS FMP and are beyond the scope of this rulemaking. NMFS will take these comments into consideration during related future management planning for the Pacific sardine stock, and recommends Oceana continue to bring these concerns to the attention of the Council as that body deliberates about the management framework for sardine.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law. There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of these final harvest specifications for the 2018–2019 Pacific sardine fishing season. In accordance with the FMP, this rule was recommended by the Council at its meeting in April 2018 the contents of which were based on the best available new information on the population status of Pacific sardine that became available at that time. Making these final specifications effective on July 1, the first day of the fishing season, is necessary for the conservation and management of the Pacific sardine resource because last year's restrictions on harvest are not effective after June 30. The FMP requires a prohibition on directed fishing for Pacific sardine for the 2018–2019 fishing year because the sardine biomass has dropped below the CUTOFF. The purpose of the CUTOFF in the FMP, and for prohibiting a directed fishing when the biomass drops below this level, is to protect the stock when biomass is low and provide a buffer of spawning stock that is protected from fishing and can contribute to rebuilding the stock. A delay in the effectiveness of this rule for a full 30 days would result in the re-opening the directed commercial fishery on July 1.

Delaying the effective date of this rule beyond July 1 would be contrary to the public interest because it would jeopardize the sustainability of the Pacific sardine stock. Furthermore, most affected fishermen are aware that the Council recommended that directed commercial fishing be prohibited for the 2018–2019 fishing year and are fully prepared to comply with the prohibition.

This final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with the tribal representative on the Council who has agreed with the provisions that apply to tribal vessels.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

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

Dated: June 20, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018–13583 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XG305

Fisheries of the Exclusive Economic Zone Off Alaska; Kamchatka Flounder in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Kamchatka flounder in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2018 Kamchatka flounder initial total allowable catch (ITAC) in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 20, 2018, through 2400 hours, A.l.t., December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2018 Kamchatka flounder ITAC in the BSAI is 4,250 metric tons (mt) as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 Kamchatka flounder ITAC in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,000 mt, and is setting aside the remaining 2,250 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is

prohibiting directed fishing for Kamchatka flounder in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Kamchatka flounder to directed fishing in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 18, 2018.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 20, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018–13581 Filed 6–20–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 122
Monday, June 25, 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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2015–0101]

RIN 0579–AE30

Phytophthora ramorum; Regulated Areas, Regulated Establishments, and Testing Protocols

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the *Phytophthora ramorum* regulations to remove regulated areas for *P. ramorum* from the regulations, as well as all regulatory requirements specific to such areas. We are proposing to amend the regulations by revising the inspection and sampling requirements for certain nurseries that are in areas quarantined for *P. ramorum* and that ship regulated nursery stock interstate. We are proposing to change the nature of the inspection and sampling requirements to have them take into consideration additional potential sources of *P. ramorum* inoculum at the nurseries. Finally, we are proposing to establish conditions under which we would regulate nurseries located outside of the quarantined areas for *P. ramorum,* if sources of *P. ramorum* inoculum are detected at those nurseries and the nurseries ship certain articles interstate. These changes would provide regulatory relief to nurseries in areas that are regulated for *P. ramorum,* while also ensuring that nurseries that may pose a risk of disseminating *P. ramorum* through the interstate movement of regulated nursery stock are subject to measures that address this risk.

DATES: We will consider all comments that we receive on or before August 24, 2018.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2015-0101.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0101, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2015-0101* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Maguylo, National Policy Manager, Pest Management, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737–1238; (301) 851–3128.

SUPPLEMENTARY INFORMATION:

Background

Under section 412(a) of the Plant Protection Act (7 U.S.C. 7701 *et seq.,* referred to below as the PPA), the Secretary of Agriculture may prohibit or restrict the movement in interstate commerce of any plant or plant product, if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States.

Phytophthora ramorum, commonly known as sudden oak death, ramorum leaf blight, and ramorum dieback, is a harmful pathogen that can cause mortality in several oak tree species and also causes twig and foliar diseases in numerous native and non-native ornamental plants, shrubs, and trees within the United States.

P. ramorum was first discovered in the natural environment in 14 counties in California and portions of 1 county in Oregon. When the disease was subsequently discovered in certain nurseries on the west coast that shipped nursery stock interstate, the Animal and Plant Health Inspection Service (APHIS) issued an interim rule published in the **Federal Register** on February 14, 2002 (67 FR 6827–6837, Docket No. 01–054–1). The interim rule established a new subpart, ''Subpart—*Phytophthora ramorum*'' (7 CFR 301.92 through 301.92–12, referred to below as the regulations), which contains APHIS' regulations to address the spread of *P. ramorum.*

Section 301.92–3 of the regulations designates certain States and portions of States as quarantined areas for *P. ramorum.* The regulations also designate other States or portions of States as regulated areas for *P. ramorum.* Quarantined areas are areas in which *P. ramorum* has been confirmed by an inspector to exist in the natural environment, in which there is reason to believe *P. ramorum* exists in the natural environment, or which APHIS considers to be inseparable for quarantine enforcement purposes from localities in which *P. ramorum* has been found in the natural environment.

Regulated areas are defined in the regulations as areas in which *P. ramorum* has been found on nursery stock in commercial nurseries, but in which *P. ramorum* has not been found in the natural environment. The quarantined areas for *P. ramorum* are designated in paragraph (a) of § 301.92–3. Regulated areas for *P. ramorum* are designated in paragraph (b) of § 301.92–3. Quarantined areas include 14 counties in California and a portion of 1 county in Oregon. Regulated areas include the remainder of California and Oregon, as well as the State of Washington.

Section 301.92–2 of the regulations designates nursery stock of proven host taxa for *P. ramorum* as regulated articles for *P. ramorum.* It also designates nursery stock of taxa associated with *P. ramorum,* but not proven to be hosts, as associated articles for *P. ramorum.* Nursery stock of taxa that are neither designated as proven hosts nor as associated with *P. ramorum* are considered to be non-hosts.

Section 301.92–4 of the regulations contains conditions for the interstate movement of regulated and non-host nursery stock from quarantined areas for *P. ramorum.* This section also contains conditions for the interstate movement of regulated and non-host nursery stock from regulated areas for *P. ramorum.* The conditions for movement of both regulated and non-host nursery stock from a quarantined area for *P. ramorum* are found in paragraphs (a) and (c) of § 301.92–4, while the conditions for

interstate movement of both regulated and non-host nursery stock from a regulated area for *P. ramorum* are found in paragraph (d) of that section.

Paragraph (d) requires certificates to be issued in order for regulated nursery stock to be shipped interstate from a regulated area for *P. ramorum,* and also requires certificates to be issued for the interstate movement of non-host nursery stock, if the nursery from which the nursery stock originates contains regulated or associated articles for *P. ramorum.* If the nursery contained only non-host nursery stock, then certificates are not required, provided that the nursery is inspected and found free of evidence of *P. ramorum.* (We discuss the inspection protocols, which are found in § 301.92–11 of the regulations, in the following paragraphs.)

Section 301.92–5 of the regulations requires that, in order for nurseries in quarantined or regulated areas for *P. ramorum* to ship regulated or non-host nursery stock interstate under a certificate, the nurseries have to be inspected annually in accordance with inspection and sampling protocols. The inspection and sampling protocols are found in § 301.92–11 of the regulations. The inspection and sampling protocols for nurseries in quarantined areas for *P. ramorum* that ship regulated or non-host nursery stock interstate are found in paragraphs (a) and (b) of § 301.92–11, respectively, while the inspection and sampling protocols for nurseries in regulated areas for *P. ramorum* that ship regulated or non-host nursery stock interstate are found in paragraphs (c) and (d) of § 301.92–11, respectively.

Paragraph (c) of § 301.92–11 contains the following inspection and sampling protocol for nurseries in regulated areas for *P. ramorum* that ship regulated nursery stock interstate: Visual inspection of the nurseries for symptoms of *P. ramorum;* sampling of plants showing symptoms of infection with *P. ramorum;* and testing of those samples using an approved test (approved tests and testing protocols for *P. ramorum* are found in § 301.92–12 of the regulations). While testing is ongoing, the symptomatic plants, the lot containing the symptomatic plants, and plants located within 2 meters of that lot cannot be moved interstate. Nurseries in quarantined areas for *P. ramorum* are subject to a similar protocol with more stringent inspection requirements. Finally, nurseries in quarantined and regulated areas for *P. ramorum* that contain and ship only non-host nursery stock are subject to a similar inspection protocol, but are only subject to sampling and testing if an inspector found plants showing symptoms of *P. ramorum.*

Over a 9-year period, from 2004, when we implemented these protocols, to 2013, APHIS and the State plant protection authorities of California, Oregon, and Washington inspected approximately 3,050 nurseries annually. During that time period, *P. ramorum* was never detected at a nursery located in a regulated area for *P. ramorum* and that contains and ships interstate only non-host nursery stock. Additionally, *P. ramorum* was discovered in the natural environment of only one area that had been regulated for *P. ramorum,* a portion of Curry County, OR.

Additionally, of the nurseries in regulated areas for *P. ramorum* that contain and ship interstate regulated nursery stock, *P. ramorum* was detected at a very small percentage—usually no more than 3 percent annually. The vast majority of the nurseries were found free of *P. ramorum* each time they were inspected.

If *P. ramorum* was detected at a nursery during one of these inspections, however, it often was not limited to infected plants. Rather, multiple sources of the inoculum often were detected at the nursery; these include growing media, pots used for nursery stock, standing water, drainage water, and water used for irrigation. This is also true of nurseries that are located in quarantined areas for *P. ramorum* and in which the disease was detected.

Finally, between 2004 and 2013, APHIS detected *P. ramorum* in 120 nurseries in areas that are neither quarantined nor regulated for *P. ramorum,* and in which APHIS has no reason to believe *P. ramorum* exists in the natural environment. Most of these nurseries were retailers that sell directly to consumers and do not engage in interstate commerce. However, some did ship regulated, restricted, and associated articles interstate. Several of those nurseries tested positive for *P. ramorum* in their soil, standing water, water for irrigation, or growing media.

This data led us to reevaluate our regulatory strategy for addressing the artificial spread of *P. ramorum* within the United States. As a result of this reevaluation, we no longer saw a need for regulating geographical areas for *P. ramorum* unless we determined that the area met the criteria for designation as a quarantined area for *P. ramorum.* However, we did see a need to regulate nurseries outside of quarantined areas for *P. ramorum* if the nurseries shipped regulated, restricted, or associated articles interstate and sources of *P. ramorum* were discovered at the nursery.

Accordingly, in a Federal Order issued on January 10, 2014, and a Federal Order issued on April 3, 2015, we restructured the domestic quarantine program for *Phytophthora ramorum.*[1] Specifically:

- We deregulated all regulated areas for *P. ramorum,* and removed all regulatory restrictions specific to those areas.
- Instead of regulated areas for *P. ramorum,* we implemented regulated establishments for *P. ramorum.* A regulated establishment is a nursery that is not located in a quarantined area for *P. ramorum,* that ships regulated, restricted, or associated articles interstate, and in which sources of *P. ramorum* inoculum are detected on nursery stock, or in soil, growing media, pots used for nursery stock, standing water, drainage water, water used for irrigation, or any other regulated, restricted, or associated articles at the nursery.
- We instituted inspection and sampling protocols for regulated establishments.
- We implemented restrictions on the interstate movement of regulated, restricted, and associated articles from regulated establishments.
- We revised the inspection and sampling protocol for nurseries in quarantined areas, as well as the conditions for interstate movement of regulated, restricted, and associated articles from certain of those nurseries.

We are proposing to update the regulations to reflect the changes made by the Federal Orders to the *Phytophthora ramorum* domestic quarantine program. Additionally, we are proposing to update the lists of regulated and associated articles for *P. ramorum,* and establish conditions for the interstate movement of soil samples from areas quarantined for *P. ramorum.*

Below, we discuss these amendments to the regulations at greater length.

Removal of Regulated Areas and Establishment of Regulated Establishments

As we mentioned earlier in this document, paragraph (b) of § 301.92–3 lists areas designated as regulated areas for *Phytophthora ramorum.* Proposed paragraph (b) would provide conditions for the designation and deregulation of regulated establishments. Specifically, it would state that the Administrator would designate a nursery that is not located in a quarantined area for *P.*

[1] *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/ct_phytophthora_ramorum_sudden_oak_death.*

ramorum as a regulated establishment for *P. ramorum* if the nursery ships regulated, restricted, or associated articles interstate and sources of *P. ramorum* are detected on nursery stock, or in soil, growing media, pots used for nursery stock, standing water, drainage water, water used for irrigation, or any other regulated, restricted, or associated articles at the nursery. It would also state that the Administrator would withdraw regulation of a regulated establishment if, for 3 consecutive years, each time the nursery is inspected by an inspector, it is found free of sources of *P. ramorum* inoculum. We discuss the inspection and sampling protocols for regulated establishments later in this document.

Currently, paragraph (d) of § 301.92–4 contains conditions for interstate movement of both regulated and non-host nursery stock from a regulated area for *Phytophthora ramorum.* Proposed paragraph (d) would contain conditions for the movement of regulated, restricted, and associated articles from regulated establishments. In order for such articles to be moved interstate, the regulated establishment would have to enter into a compliance agreement with APHIS, and the articles would have to be accompanied by a certificate issued in accordance with § 301.92–5. We are also proposing to amend the heading of the section so that it is clear that it contains conditions for the interstate movement of regulated, restricted, and associated articles from regulated establishments.

Within § 301.92–5, paragraph (b) contains conditions for the issuance of certificates for regulated articles of nursery stock, associated articles, and non-host nursery stock from nurseries in regulated areas. Proposed paragraph (b) would contain conditions for the issuance of certificates for regulated, restricted, and/or associated articles from regulated establishments. Under the proposal, in order for a certificate to be issued for such articles, an inspector would have to determine that the nursery entered into a compliance agreement with APHIS and abided by all terms and conditions of that compliance agreement, the nursery had been inspected in accordance with the inspection and sampling protocols specified in § 301.92–11, the articles to be shipped interstate are free from *P. ramorum* inoculum, and the movement of the articles would not be subject to additional restriction under the PPA or other Federal domestic plant quarantines and regulations.

Within § 301.92–11, paragraph (c) contains inspection and sampling protocols for nurseries in regulated areas that ships regulated articles of nursery stock or associated articles interstate. Proposed paragraph (c) would contain inspection and sampling protocols for regulated establishments shipping regulated, restricted, or associated articles interstate.

Specifically, proposed paragraph (c) would require that regulated establishments be inspected at least twice annually for symptoms of *P. ramorum* infestation by an inspector. The inspection would focus on regulated plants and other potential sources of *P. ramorum* inoculum. Additionally, during such inspections, samples would be taken from host plants, soil, standing water, drainage water, water for irrigation, growing media, and any other articles determined by the inspector to be possible sources of *P. ramorum* inoculum. The number of samples taken could vary depending on the possible sources of *P. ramorum* identified at the nursery, as well as the number of host articles in the nursery. Finally, samples would be labeled and sent for testing to a laboratory approved by APHIS in accordance with the regulations.

If all samples tested returned negative results for *P. ramorum,* an inspector could certify that the nursery is free of *P. ramorum* at the time of the inspection, and all regulated, restricted, and associated articles at the nursery would be considered free from *P. ramorum* inoculum for purposes of § 301.92–5(b) until the time of the next inspection. Additionally, as we mentioned previously in this document, if, for 3 consecutive years, the nursery is determined to be free of sources of *P. ramorum* inoculum each time it is inspected by an inspector, it would be deregulated.

If any samples tested return positive results for *P. ramorum,* the nursery could ship lots of regulated, restricted, or associated articles interstate under a certificate only if the lot is determined to be free from *P. ramorum* inoculum. (In other words, the articles at the nursery are not presumed to be free from *P. ramorum* inoculum because of the positive samples, and would be evaluated on a lot-by-lot basis.) The method for this determination would be specified within the nursery's compliance agreement with APHIS.

Paragraph (d) of § 301.92–11 contains an inspection and sampling protocol for nurseries in regulated areas for *P. ramorum* that ship non-host nursery stock interstate, and do not contain regulated or associated articles. Because we are proposing to remove regulated areas from the regulations, and nurseries that only contain and ship interstate non-host nursery stock would not be designated as regulated establishments, we are proposing to remove the inspection and sampling protocol contained in paragraph (d) of § 301.92–11 from the regulations.

We are also proposing to make several harmonizing changes to other sections of the regulations to reflect the removal of regulated areas for *P. ramorum* and implementation of regulated establishments for *P. ramorum.*

Section 301.92 contains general restrictions on the interstate movement of regulated, restricted, and associated articles, as well as other nursery stock. Paragraph (b) of § 301.92 states that no person may move nursery stock interstate from a nursery in a regulated area for *P. ramorum* except in accordance with the regulations. Proposed paragraph (b) would specify that no person may move restricted, regulated, or associated articles from a regulated establishment except in accordance with the regulations.

Currently, paragraph (c) of § 301.92 states that no person may move regulated, restricted, or associated articles interstate from a quarantined or regulated area for *P. ramorum* if the articles have been tested with a test approved by APHIS and found infected with *P. ramorum,* or if the articles are part of a plant that was found infected with *P. ramorum,* unless the articles are moved in accordance with 7 CFR part 330 (*i.e.,* our regulations governing the interstate movement of plant pests). Proposed paragraph (c) would prohibit the interstate movement from quarantined areas or regulated establishments of articles that have been found infected with *P. ramorum* or that are part of a plant that has been found infected with *P. ramorum.*

Section 301.92–1 contains definitions of terms used in the regulations. The section includes a definition of *regulated area.* Since that term is no longer used in the *P. ramorum* domestic quarantine program, we are proposing to remove the definition from § 301.92–1. We are also proposing to add a definition of *regulated establishment* to § 301.92–1. The definition would state that a *regulated establishment* is any nursery regulated by APHIS pursuant to paragraph (b) of § 301.92–3 of the regulations.

Revisions to Inspection and Sampling Protocols for Quarantined Areas

As we mentioned earlier in this document, paragraph (a) of § 301.92–11 contains an inspection and sampling protocol for nurseries in quarantined areas for *P. ramorum* that ship regulated nursery stock interstate, while

paragraph (b) of § 301.92–11 contains an inspection and sampling protocol for nurseries in quarantined areas for *P. ramorum* that ship non-host nursery stock interstate.

Proposed paragraph (a) would contain two separate inspection and sampling protocols. Pursuant to the January 2014 Federal Order, if *P. ramorum* has not been discovered at the nursery since March 31, 2011, the inspection and sampling protocol for the nursery would be substantially similar to the one currently stated in the regulations. The only change would be the minimum number of samples that would be tested at the nursery: Whereas the regulations provide for a minimum of 40 samples, under the Federal Order the minimum number of samples is set on a nursery-by-nursery basis depending on the amount of regulated, restricted, and associated articles at the nursery. We are proposing to revise paragraph (a) to align the regulations with changes made by the Federal Order.

Proposed paragraph (a) would also provide that if, however, *P. ramorum* has been discovered at the nursery since March 31, 2011, the nursery would be subject to the same inspection and sampling protocol as that specified for regulated establishments. Unlike regulated establishments, however, if a nursery in a quarantined area is tested and found free of *P. ramorum* inoculum for 3 consecutive years, it would not be released from regulation, but rather reverted to the previous inspection and sampling protocol.

We are proposing minor revisions to paragraph (b) of § 301.92–11 to reflect these changes to paragraph (a).

We are also proposing to make one additional amendment to § 301.92–11. The introductory text to the section contains a table to aid nurseries in determining what inspection and sampling protocol they are subject to. One of the primary purposes of the table is to delineate the different inspection and sampling protocols for regulated areas, which is no longer necessary. Another primary purpose of the table is to clarify that inspection and sampling protocols for nurseries in quarantined areas differed based on whether the nursery ships regulated nursery stock interstate. This is no longer necessarily the case; a nursery in a quarantined area for *P. ramorum* that ships only regulated nursery stock interstate would be subject to the same inspection and sampling protocol as a nursery that ships non-host nursery stock interstate if *P. ramorum* had not been discovered at the nursery since March 31, 2011. For these reasons, we are proposing to remove the table from the regulations.

As we mentioned earlier in this document, § 301.92–12 of the regulations contains approved tests and testing protocols for *P. ramorum.* Paragraph (a) is written in a manner which considers all samples tested for *P. ramorum* using an optional ELISA prescreening to be plants or plant products. As a result of our proposed revisions to § 301.92–11, samples tested using an optional ELISA prescreening may not always be from plants or plant products; for example, they may come from standing water or water used for irrigation. Therefore, we are proposing to revise paragraph (a) of § 301.92–12 accordingly.

Revisions to the Lists or Regulated and Associated Articles

As we mentioned previously in this document, § 301.92–2 of the regulations designates nursery stock of proven host taxa for *P. ramorum* as regulated articles for *P. ramorum.* It also designates nursery stock of taxa associated with *P. ramorum,* but not proven to be hosts, as associated articles for *P. ramorum.* We are proposing to add *Cinnamomum camphora* and *Gaultheria procumbens* to the list of regulated articles, and *Ilex cornuta, Illicium parviflorum, Larix kaempferi, Magnolia denudata, Mahonia nervosa, Molinadendron sinaloense, Trachelospermum jasminoides,* and *Veronica spicata* Syn. *Pseudolysimachion spicatum* to the list of associated articles.

Conditions for the Interstate Movement of Soil Samples

As we mentioned previously in this document, paragraph (a) of § 301.92–4 provides conditions for the interstate movement of regulated articles from quarantined areas for *P. ramorum.* Paragraph (a)(2) of that section provides conditions for the interstate movement of regulated articles without a certificate.

On June 1, 2016, we issued a Federal Order [2] authorizing the interstate movement of soil samples for chemical or physical (compositional analysis) from quarantined areas for *P. ramorum* without a certificate, provided that they are moved to a laboratory, and that laboratory:

- Has entered into and is operating under a compliance agreement with APHIS in accordance with § 301.92–6;
- Is abiding by all terms and conditions of that compliance agreement; and
- Is approved by APHIS to test and/or analyze such samples.

[2] To view the Federal Order, go to *https://www.aphis.usda.gov/plant_health/plant_pest_info/pram/downloads/pdf_files/DA-2016-34.pdf.*

We are proposing to amend paragraph (a)(2) of § 301.92–4 based on the provisions of this Federal Order.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866. Further, APHIS considers this rule to be a deregulatory action under Executive Order 13771 as the action would remove regulated areas for *P. ramorum* from the regulations, as well as the regulatory requirements specific to such areas, thus relieving restrictions on affected entities located in those areas.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* website (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

This proposed rule would revise the *P. ramorum* domestic regulations to accord with Federal Orders issued 2013–2016. The Federal Orders have allowed APHIS and State regulatory agencies to focus regulatory controls on the nurseries that present a significant risk of spreading the pathogen and away from those nurseries that pose a negligible risk of contributing to its artificial spread, thereby more efficiently apportioning resources and regulatory burden.

This proposed rule would remove the designation of *P. ramorum* regulated areas, as well as all restrictions and protocols specific to those areas. It would relieve the regulatory burden on approximately 1,500 nurseries where the disease is not present in the environment. As an alternative to regulated areas, this action would codify the concept of regulated establishments that would be required to enter into compliance agreement with APHIS.

The annual cost of complying with the *P. ramorum* management requirements in the regulations averages about $15,000 per nursery. Thus, the cost savings for the 1,500 operations relieved of these management requirements totals $22.5 million per year. In addition, by not requiring annual certification by APHIS or State

officials, there are public cost savings of $252,000.

This rule would not deregulate the current *P. ramorum* quarantined areas, nor would it deregulate interstate shipping nurseries located within these quarantined areas. For regulated establishments and establishments located within quarantined areas, compliance costs may increase or decrease depending on amended best management practices, but any related change in operational costs is not expected to be significant. The majority of establishments affected by this rule are small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting, recordkeeping, and third party disclosure requirements included in this proposed rule have already been approved by the Office of Management and Budget (OMB) under OMB control numbers 0579–0088 and 0579–0310.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to revise 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

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

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Section 301.92 is amended as follows:

■ a. By revising paragraph (b); and

■ b. In paragraph (c), by removing the words ''quarantined or regulated area'' and adding the words ''quarantined area or regulated establishment'' in their place.

The revision reads as follows:

§ 301.92 Restrictions on interstate movement.

* * * * *

(b) No person may move interstate from any regulated establishment any regulated, restricted, or associated articles except in accordance with this subpart.

* * * * *

■ 3. Section 301.92–1 is amended as follows:

■ a. By removing the definition of *Regulated area;* and

■ b. By adding a definition of *Regulated establishment* in alphabetical order.

The addition reads as follows:

§ 301.92–1 Definitions.

* * * * *

Regulated establishment. Any nursery regulated by APHIS pursuant to § 301.92–3(b).

* * * * *

■ 4. Section 301.92–2 is amended as follows:

■ a. In paragraph (d), by adding entries alphabetically for *Cinnamomum camphora* and *Gaultheria procumbens;* and

■ b. In paragraph (e), by adding entries alphabetically for *Ilex cornuta, Illicium parviflorum, Larix kaempferi, Magnolia denudata, Mahonia nervosa, Molinadendron sinaloense, Trachelospermum jasminoides,* and *Veronica spicata* Syn. *Pseudolysimachion spicatum.*

The additions read as follows:

§ 301.92–2 Restricted, regulated, and associated articles; lists of proven hosts and associated plant taxa.

* * * * *

(d) * * *

* *Cinnamomum camphora* Camphor tree

* * * * *

* *Gaultheria procumbens,* Eastern teaberry

* * * * *

(e) * * *

* *Ilex cornuta* Buford holly, Chinese holly

* * * * *

* *Illicium parviflorum* Yellow anise

* *Larix kaempferi* Japanese larch

* * * * *

* *Magnolia denudata* Lily tree

* * * * *

* *Mahonia nervosa* Creeping Oregon grape

* * * * *

* *Molinadendron sinaloense*

* * * * *

* *Trachelospermum jasminoides* Star jasmine, confederate jasmine

* * * * *

* *Veronica spicata* Syn. *Pseudolysimachion spicatum* Spiked speedwell

■ 5. Section 301.92–3 is revised to read as follows:

§ 301.92–3 Quarantined areas and regulated establishments.

(a) *Quarantined areas.* (1) Except as otherwise provided in paragraph (a)(2) of this section, the Administrator will designate as a quarantined area in paragraph (a)(3) of this section each State, or each portion of a State, in which *Phytophthora ramorum* has been confirmed by an inspector to be established in the natural environment, in which the Administrator has reason to believe that *Phytophthora ramorum* is present in the natural environment, or that the Administrator considers it necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which *Phytophthora ramorum* has been found in the natural environment. Less than an entire area will be designated as a quarantined area only if the Administrator determines that:

(i) The State has adopted and is enforcing restrictions on the intrastate movement of regulated, restricted, and associated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated, restricted, and associated articles; and

(ii) The designation of less than the entire State as a quarantined area will prevent the interstate spread of *Phytophthora ramorum.*

(2) The Administrator or an inspector may temporarily designate any nonquaratined area as a quarantined area in accordance with paragraph (a)(1) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated, restricted, or associated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (a)(3) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(3) The following areas are designated as quarantined areas:

California

Alameda County. The entire county.
Contra Costa County. The entire county.
Humboldt County. The entire county.
Lake County. The entire county.
Marin County. The entire county.
Mendocino County. The entire county.
Monterey County. The entire county.
Napa County. The entire county.
San Francisco County. The entire county.
San Mateo County. The entire county.
Santa Clara County. The entire county.
Santa Cruz County. The entire county.
Solano County. The entire county.
Sonoma County. The entire county.
Trinity County. The entire county.

Oregon

Curry County. The following portion of Curry County that lies inside the area starting at the point where the mouth of the Rogue River meets the Pacific Ocean and continuing east along the Rogue River to the northeast corner of T35S R12W section 31; then south to the northeast corner of T38S R12W section 18; then east to the northeast corner of T38S R12W section 13; then south to northeast corner of T38S R12W section 25; then east to the northeast corner of T38S R11W section 29; then south to the northeast corner of T40S R11W section 8; then east to the northeast corner of T40S R11W section 10; then south to the State border with California; then west to the intersection of the State border and U.S. Highway 101; then northwest along U.S. Highway 101 to the intersection with West Benham Lane; then west along West Benham Lane to the Pacific Coastline; then following the Pacific Coastline northwest to the point of beginning.

(b) *Regulated establishments.* (1) *Designation.* The Administrator will designate a nursery that is not located in a quarantined area for *Phytophthora ramorum* as a regulated establishment for *Phytophthora ramorum* if the nursery ships regulated, restricted, or associated articles interstate and sources of *Phytophthora ramorum* are detected on nursery stock, or in soil, growing media, pots used for nursery stock, standing water, drainage water, water used for irrigation, or any other regulated, restricted, or associated articles at the nursery.

(2) *Deregulation.* The Administrator will withdraw regulation of a regulated establishment if, for 3 consecutive years, each time the nursery is inspected by an inspector, it is found free of sources of *Phytophthora ramorum* inoculum.

(Approved by the Office of Management and Budget under control number 0579–0310)

■ 6. Section 301.92–4 is amended as follows:
■ a. By revising the section heading; and
■ b. By revising paragraphs (a)(2) and (d).

The revisions read as follows:

§ 301.92–4 Conditions governing the interstate movement of regulated, restricted, and associated articles, and non-host nursery stock from quarantined and regulated establishments.

(a) * * *

(2) *Without a certificate.* (i)(A) The regulated article or associated article originated outside the quarantined area and the point of origin of the article is indicated on the waybill of the vehicle transporting the article; and

(B) The regulated or associated article is moved from outside of the quarantined area through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs, and the article is not unpacked or unloaded in the quarantined area.

(ii) Soil samples may be moved from a quarantined area for *Phytophthora ramorum* for chemical or physical (compositional) analysis provided that they are moved to a laboratory; and that laboratory:

(A) Has entered into and is operating under a compliance agreement with APHIS in accordance with § 301.92–6;

(B) Is abiding by all terms and conditions of that compliance agreement; and

(C) Is approved by APHIS to test and/or analyze such samples.

* * * * *

(d) *Interstate movement of regulated, restricted, and associated articles from regulated establishments.* Regulated, restricted, and associated articles may be moved interstate from a regulated establishment if the regulated establishment has entered into a compliance agreement with APHIS in accordance with § 301.92–6, and the articles are accompanied by a certificate issued in accordance with § 301.92–5.

■ 7. Section 301.92–5 is amended by revising paragraphs (a)(1)(iv)(A) and (b) to read as follows:

§ 301.92–5 Issuance and cancellation of certificates.

(a) * * *

(1) * * *

(iv) * * *

(A)(*1*) Are shipped from a nursery that has been inspected in accordance with the inspection and sampling protocol described in § 301.92–11(a)(1), and the nursery is free of evidence of *Phytophthora ramorum* infestation; or

(*2*) Are shipped from a nursery that has been inspected in accordance with the inspection and sampling protocol described in § 301.92–11(a)(2), and the nursery is free of evidence of *Phytophthora ramorum* infestation; or

(*3*) Are shipped from a nursery that has been inspected in accordance with the inspection and sampling protocol described in § 301.92–11(a)(2), is not free of evidence of *Phytophthora ramorum* infestation, but has entered into and is operating under a compliance agreement with APHIS, and is determined by an inspector to be abiding by all terms and conditions of that agreement; and

* * * * *

(b) *Movements from regulated establishments.* An inspector may issue a certificate for the movement of regulated, restricted, and/or associated articles from a regulated establishment if the inspector determines that:

(1) The nursery has entered into a compliance agreement APHIS in accordance with § 301.92–6 and is abiding by all terms and conditions of that agreement; and

(2) The nursery has been inspected in accordance with § 301.92–11(c); and

(3) The articles to be shipped interstate are free from *Phytophthora ramorum* inoculum; and

(4) The movement of the articles is not subject to additional restriction under section 414 of the Plant Protection Act (7 U.S.C. 7714) or other

Federal domestic plant quarantines and regulations.

* * * * *

§ 301.92–6 [Amended]

■ 8. Section 301.92–6 is amended as follows:

■ a. By redesignating footnote 15 as footnote 12; and

■ b. In the OMB citation at the end of the section, by adding the words ''0579–0088 and'' after the word ''numbers''.

§ 301.92–7 [Amended]

■ 9. In § 301.92–7, footnote 16 is redesignated as footnote 13.

■ 10. Section 301.92–11 is revised to read as follows:

§ 301.92–11 Inspection and sampling protocols.

(a) *Nurseries in quarantined areas shipping regulated articles of nursery stock and associated articles interstate.* (1) *Nurseries in which Phytophthora ramorum has not been detected since March 31, 2011.* To meet the requirements of § 301.92–5(a)(1)(iv), nurseries that are located in quarantined areas, that move regulated articles of nursery stock, decorative trees without roots, wreaths, garlands, or greenery, associated articles, or non-host nursery stock interstate, and in which *Phytophthora ramorum* has not been detected since March 31, 2011, must meet the following requirements. Any such nurseries in quarantined areas that do not meet the following requirements are prohibited from moving regulated articles and associated articles interstate. Any such nurseries in quarantined areas that do not meet the following requirements or those in paragraph (b) of this section are prohibited from moving non-host nursery stock interstate.

(i) *Annual inspection, sampling, and testing.* (A) *Inspection.* The nursery must be inspected annually for symptoms of *Phytophthora ramorum* by an inspector. Inspectors will visually inspect for symptomatic plants throughout the nursery, and inspection will focus on, but not be limited to, regulated articles and associated articles.

(B) *Sampling.* A minimum number of plant samples must be tested per nursery location. The minimum number will be determined by APHIS on a nursery-by-nursery basis, based on the number of regulated, restricted, and associated articles contained in the nursery. Each sample may contain more than one leaf, and may come from more than one plant, but all plants in the sample must be from the same lot. Asymptomatic samples, if collected, must be taken from regulated and associated articles and nearby plants. Inspectors must conduct inspections at times when the best expression of symptoms is anticipated and must take nursery fungicide programs into consideration. Nursery owners must keep records of fungicide applications for 2 years and must make them available to inspectors upon request.

(C) *Testing.* Samples must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS, in accordance with § 301.92–12.

(D) *Annual certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* an inspector may certify that the nursery is free of evidence of *Phytophthora ramorum* infestation at the time of the inspection, and the nursery is eligible to enter into or maintain its compliance agreement in accordance with § 301.92–6.

(ii) *Pre-shipment inspection, sampling, and testing.* (A) *Inspection.* During the 30 days prior to interstate movement from a nursery in a quarantined area, regulated articles or associated articles intended for interstate movement must be inspected for symptoms of *Phytophthora ramorum* by an inspector. Inspection will focus on, but not be limited to, regulated articles and associated articles. No inspections of shipments will be conducted unless the nursery from which the shipment originates has a current and valid annual certification in accordance with this section.

(*1*) If no symptomatic plants are found upon inspection, the shipment may be considered free from evidence of *Phytophthora ramorum* and is eligible for interstate movement, provided that the nursery is operating under a compliance agreement with APHIS in accordance with § 301.92–6.

(*2*) If symptomatic plants are found upon inspection, the inspector will collect at least one sample per symptomatic plant, and one sample per regulated article or associated article that is in close proximity to, or that has had physical contact with, a symptomatic plant.

(B) *Testing and withholding from interstate movement.* Samples taken in accordance with this paragraph (a)(1) must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS, in accordance with § 301.92–12. The interstate movement of plants in the shipment is prohibited until the plants in the shipment are determined to be free of evidence of *Phytophthora ramorum* infection in accordance with § 301.92–12.

(2) *Nurseries in which Phytophthora ramorum has been detected since March 31, 2011.* To meet the requirements of § 301.92–5(a)(1)(iv), nurseries that are located in quarantined areas, that move regulated articles of nursery stock, decorative trees without roots, wreaths, garlands, or greenery, associated articles, or non-host nursery stock interstate, and in which *Phytophthora ramorum* has been detected since March 31, 2011, must meet the following requirements. Any such nurseries in quarantined areas that do not meet the following requirements are prohibited from moving regulated articles and associated articles interstate. Any such nurseries in quarantined areas that do not meet the following requirements or those in paragraph (b) of this section are prohibited from moving non-host nursery stock interstate.

(i) *Inspections.* The nursery must be inspected at least twice annually for symptoms of *Phytophthora ramorum* infestation by an inspector. The inspection will focus on regulated plants and other potential sources of *Phytophthora ramorum* inoculum.

(ii) *Sampling.* Samples must be taken from host plants, soil, standing water, drainage water, water for irrigation, and any other articles determined by the inspector to be possible sources of *Phytophthora ramorum* inoculum. The number of samples taken may vary depending on the possible sources of inoculum identified at the nursery, as well as the number of host articles in the nursery.

(iii) *Testing.* Samples must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS in accordance with § 301.92–12.

(iv) *Negative results; certification.* If all samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* an inspector may certify that the nursery is free of *Phytophthora ramorum* at the time of the inspection. If the nursery is inspected and determined by an inspector to be free of *Phytophthora ramorum* inoculum each time it is inspected for 3 consecutive years, the nursery will thereafter be inspected in accordance with paragraph (a)(1) of this section.

(v) *Positive results.* If any samples tested in accordance with this section and§ 301.92–12 return positive results for *Phytophthora ramorum,* the nursery may ship lots of regulated, restricted, and associated articles interstate pursuant to § 301.92–5(b) only if the lot is determined to be free from

Phytophthora ramorum inoculum. The method for this determination will be specified in the nursery's compliance agreement with APHIS.

(b) *Nurseries in quarantined areas shipping non-host nursery stock interstate.* Nurseries located in quarantined areas and that move non-host nursery stock interstate must meet the requirements of this paragraph or the requirements of paragraph (a) of this section. If such nurseries contain any regulated or restricted articles, the nursery must meet the requirements of paragraph (a) of this section. This paragraph (b) only applies if there are no regulated or associated articles or nursery stock at the nursery. Nurseries that do not meet the requirements of paragraph (a) of this section or this paragraph (b) are prohibited from moving non-host nursery stock interstate.

(1) *Annual visual inspection.* The nursery must be visually inspected annually for symptoms of *Phytophthora ramorum.* Inspections and determinations of freedom from evidence of *Phytophthora ramorum* infestation must occur at the time when the best expression of symptoms is anticipated.

(2) *Sampling.* All plants showing symptoms of infection with *Phytophthora ramorum* upon inspection will be sampled and tested in accordance with § 301.92–12. If symptomatic plants are found upon inspection, the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of *Phytophthora ramorum* in accordance with this paragraph and § 301.92–12: All symptomatic plants, any plants located in the same lot as the suspect plant, and any plants located within 2 meters of this lot of plants.

(3) *Certification.* If all plant samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* or if an inspector at the nursery determines that plants in a nursery exhibit no signs of infection with *Phytophthora ramorum,* the inspector may certify that the nursery free of evidence of *Phytophthora ramorum* infestation at the time of inspection. Certification is valid for 1 year and must be renewed each year to continue shipping plants interstate.

(c) *Regulated establishments shipping regulated, restricted, or associated articles of interstate.* (1) *Inspections.* To meet the conditions of § 301.92–5(b), the regulated establishment must be inspected at least twice annually for symptoms of *Phytophthora ramorum* infestation by an inspector. The inspection will focus on regulated plants and other potential sources of *Phytophthora ramorum* inoculum.

(2) *Sampling.* Samples must be taken from host plants, soil, standing water, drainage water, water for irrigation, growing media, and any other articles determined by the inspector to be possible sources of *Phytophthora ramorum* inoculum. The number of samples taken may vary depending on the possible sources of inoculum identified at the nursery, as well as the number of host articles in the nursery.

(3) *Testing.* Samples must be labeled and sent for testing to a laboratory approved by APHIS and must be tested using a test method approved by APHIS in accordance with § 301.92–12.

(4) *Negative results; certification.* If all samples tested in accordance with this section and § 301.92–12 return negative results for *Phytophthora ramorum,* an inspector may certify that the nursery is free of *Phytophthora ramorum* at the time of the inspection. For purposes of § 301.92–5(b), regulated, restricted, and associated articles at a certified nursery are considered free from *Phytophthora ramorum* until the time of the next inspection.

(5) *Positive results.* If any samples tested in accordance with this section and § 301.92–12 return positive results for *Phytophthora ramorum,* the nursery may ship lots of regulated, restricted, and associated articles interstate pursuant to § 301.92–5(b) only if the lot is determined to be free from *Phytophthora ramorum* inoculum. The method for this determination will be specified in the nursery's compliance agreement with APHIS.

(Approved by the Office of Management and Budget under control number 0579–0310)

§ 301.92–12 [Amended]

■ 11. In § 301.92–12, paragraph (a) introductory text is amended by removing the words ''prescreen plant samples'' and adding the words ''prescreen samples'' in their place.

Done in Washington, DC, this 19th day of June 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–13560 Filed 6–22–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 31

[Docket No. FAA–2018–0566; Notice No. 31–18–01–SC]

Special Conditions: Ultramagic S.A., Model M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 Balloons; Balloon Passenger Basket, Model CV–08, Seat Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Ultramagic S.A. Model M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 balloons. These balloons will have novel or unusual design features associated with a standard construction basket with a singular distribution that includes four occupant seats and a lower sidewall. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before August 9, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0566 using any of the following methods:

☐ *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

☐ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

☐ *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

☐ *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Stegeman, FAA, AIR–691, Policy & Innovation Division, Small Airplane Standards Branch, Aircraft Certification Service, 901 Locust; Kansas City, Missouri 64106; telephone (816) 329–4140; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On August 4, 2016, Ultramagic S.A. (Ultramagic) applied for a change to Type Certificate (TC) No. B02CE [1] to include new basket Model no. CV–08 for balloon Models M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105. The CV–08 basket consists of a traditionally constructed basket, but incorporates seats with restraints and trays for all passengers, as well as a lower basket sidewall to offer a panoramic view for passengers. The CV–08 basket will be matched with one of the balloon envelopes associated with the balloon models listed in these special conditions. The volume of hot air, gores, maximum diameter, and total height defines the balloon envelope.

Most balloon baskets accommodate standing passengers. The CV–08 differs by incorporating passenger seats, restraints, and a lower basket sidewall. Due to the lower sidewall and seat configuration, passengers would need to remain seated and restrained with safety belts during flight. This configuration should consider the static strength of the installations, the possible loads in an accident, and the effect on passenger safety. Accident impact should consider safety comparison between a restrained, sitting occupant; and a normal, standing occupant. Safety requirements for balloon-seated occupants are not included in the existing airworthiness regulations. These proposed special conditions evaluate the seat installations and restraints using methods consistent with special conditions issued by the European Aviation Safety Agency (EASA). The EASA special conditions are based upon a German standard for seats in hot air airships.

Type Certification Basis

Under the provisions of § 21.101, Ultramagic must show that the M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 balloon models—coupled with the CV–08 basket—continues to meet the applicable provisions of the regulations incorporated by reference in TC No. B02CE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC No. B02CE are as follows:

14 CFR 21.29 and part 31, effective on January, 1990, as amended by 31–1 through 31–5 inclusive.

Equivalent level of Safety findings per provision of 14 CFR 21.21(b)(1):

ACE–08–15 of August 1, 2008, Burners, 14 CFR 31.47(d)

ACE–08–15A of November 05, 2013, Burners, 14 CFR 31.47(d), for Model S–70

Special Conditions 31–001–SC applicable to MK–32 model burners.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 31) do not contain adequate or appropriate safety standards for the balloon models listed in these proposed special conditions because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model(s) for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the FAA would apply these special conditions to the other model under § 21.101.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 balloon models coupled with a CV–08 basket will incorporate the following novel or unusual design features:

Occupant seats with restraints and a lowered basket side rail.

Discussion

Neither the FAA's airworthiness standards (14 CFR part 31, amendment 31–5), nor EASA's current Certification Specification (CS) for Hot Air Balloons (CS 31HB, amendment 1), incorporate specific requirements for seat and seat belts.

EASA previously published a proposed special condition [2] (now expired) for seats and seat belts for hot air balloon baskets. EASA based the requirements of its proposed special condition on the German airworthiness requirements for Hot Air Airships LFHLLS,[3] incorporating hot air balloon basket requirements for seats, seat belts, and the loads in an emergency landing condition, similar to hot air airship

[1] *See http://rgl.faa.gov/.*

[2] *Ref* EASA Proposed Special Condition, ''Seats and seat belts for hot air balloons,'' Issue 1, dated October 3, 2014.

[3] LFHLLS (Lufttüchtigkeitsforderungen für Heissluft-Luftschiffe)—Airworthiness Requirements for Hot Air Ships, issued November 13, 1997, amended March 10, 1998, Germany.

requirements. Ultramagic's change application applied the language in the EASA proposed special condition for CS 31HA.14(c), ''Occupant mass,'' CS 31HA.43(d), ''Fitting factor,'' CS 31HA.561(a) and (b)(1), ''Emergency landing conditions—General,'' and CS 31HA.785(a), (c), and (d), ''Seats and seat belts'' to the CV–08 basket. The FAA finds that these standards are appropriate for a seated, restrained occupant.

Applicability

As discussed above, these special conditions are applicable to the Model M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 balloons. Should Ultramagic apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the FAA would apply these special conditions to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the balloon models specified in these special conditions. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane. These proposed special conditions are identical in intent to the EASA special conditions, although the formatting has been altered to meet these special condition requirements.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Proposed Special Conditions

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for Ultramagic S.A. Model M–56, M–56C, M–65, M–65C, M–77, M–77C, M–90, M–105, M–120, M–130, M–145, M–160, N–180, N–210, N–250, N–300, N–355, N–425, S–70, S–90, S–105, S–130, S–160, T–150, T–180, T–210, V–56, V–65, V–77, V–90, and V–105 balloons with a basket Model no. CV–08.

1. Hot Air Balloon Crashworthiness Requirements for Seat Installations and Restraints for Seated and Restrained Occupants

a. Occupant Mass

For calculation purposes, it should be assumed the mass of an occupant is at least 86 kilograms (190 pounds).

b. Seats, Safety Belts, and Harnesses Factor of Safety

For each seat, safety belt, and harness, its attachment to the structure must be shown, by analysis, tests, or both, to be able to withstand the inertia forces prescribed in paragraph (c) of these special conditions multiplied by a fitting factor of 1.33.

c. Emergency Landing Conditions—General

The balloon—although it may be damaged under emergency landing conditions—must be designed to give each occupant every reasonable chance of avoiding serious injury in a crash landing—when seat belts provided for in the design are properly used—and the occupant is subject to the following ultimate inertia forces acting relative to the surrounding structure as well as independently of each other.

(1) Forward 6g

(2) Sideways 6g

(3) Downward 6g

d. Seats and Seatbelts

(1) Each seat and its supporting structure must be designed for an occupant mass in accordance paragraph (a) of these special conditions and for the maximum load factors corresponding to the specified flight and ground load conditions, including the emergency landing conditions prescribed in paragraph (c) of these special conditions.

(2) Each seat or berth shall be fitted with an individual approved seat belt or harness.

(3) Seat belts installed on the balloon must not fail under flight or ground load conditions or emergency landing conditions in accordance with paragraph (c) of these special conditions, taking into account the geometrical arrangement of the belt attachment and the seat.

Issued in Kansas City, Missouri, on June 15, 2018.

Pat Mullen,

Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–13499 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0406; Product Identifier 2013–NE–30–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2017–07–04, which applies to General Electric Company (GE) GE90–110B1 and GE90–115B turbofan engines with certain high-pressure compressor (HPC) rotor stage 2–5 spools installed. AD 2017–07–04 resulted from reports of cracks in HPC rotor stage 2–5 spool aft spacer arms. Since we issued AD 2017–07–04, GE released a new service bulletin (SB) that increases the number of affected HPC rotor stage 2–5 spools. Additionally, we learned that we inadvertently omitted certain HPC rotor stage 2–5 spools from the applicability of AD 2017–07–04. This proposed AD would require removing certain HPC rotor stage 2–5 spools from service before reaching the new reduced life limit and replacing them with parts eligible for installation. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 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 NPRM, contact General Electric Company, One Neumann Way, Room 285, Cincinnati, OH; phone: 513–552–3272; email: *geae.aoc@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue,

Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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–2018–0406; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0406; Product Identifier 2013–NE–30–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We issued AD 2017–07–04, Amendment 39–18842 (82 FR 16728, April 6, 2017), (''AD 2017–07–04''), for GE GE90–110B1 and GE90–115B turbofan engines with certain HPC rotor stage 2–5 spools installed. AD 2017–07–04 requires removing these spools from service at times determined by a drawdown plan. AD 2017–07–04 resulted from reports of cracks in HPC rotor stage 2–5 spool aft spacer arms. We issued AD 2017–07–04 to prevent failure of a critical life-limited rotating engine part, which could result in an uncontained engine failure and damage to the airplane.

Actions Since AD 2017–07–04 Was Issued

Since we issued AD 2017–07–04, GE released GE SB GE90–100 SB 72–0714 R01, dated February 16, 2018, for the HPC rotor stage 2–5 spools, which increases the number of affected parts.

Additionally, GE and Boeing provided comments on AD–2017–07–04 that some HPC rotor stage 2–5 spools listed in AD 2013–24–17 (superseded by AD 2017–07–04), were omitted from AD 2017–07–04.

Related Service Information Under 1 CFR Part 51

We reviewed GE SB GE90–100 SB 72–0499 R01, dated February 5, 2014; GE SB GE90–100 SB 72–0659 R01, dated February 18, 2016; and GE SB GE90–100 SB 72–0714 R01, dated February 16, 2018.

GE SB GE90–100 SB 72–0499 R01 describes procedures for identification and removal from service of HPC rotor stage 2–5 spools that use the original seal tooth coating process. GE SB GE90–100 SB 72–0659 R01 describes procedures for identification and removal from service of HPC rotor stage 2–5 spools that use a modified seal tooth coating process. GE SB GE90–100 SB 72–0714 R01 describes procedures for identification and removal from service of HPC rotor stage 2–5 spools that use the modified seal tooth coating process, without coating between the seal teeth.

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

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2017–07–04. This proposed AD would require removing certain HPC rotor stage 2–5 spools from service at times specified in the required actions section.

Costs of Compliance

We estimate that this proposed AD affects 85 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Paragraph (g)(1) Spools Replacement	0 work-hours × $85 per hour = $0	$229,737	$229,737	$5,054,214
Paragraph (g)(2) Spools Replacement	0 work-hours × $85 per hour = $0	39,048	39,048	2,460,024

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

We have determined that this proposed AD would not have federalism

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–07–04, Amendment 39–18842 (82 FR 16728, April 6, 2017), and adding the following new AD:

General Electric Company: Docket No. FAA–2018–0406; Product Identifier 2013–NE–30–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 9, 2018.

(b) Affected ADs

This AD replaces AD 2017–07–04, Amendment 39–18842 (82 FR 16728, April 6, 2017) (''AD 2017–07–04'').

(c) Applicability

This AD applies to General Electric Company (GE) GE90–110B1 and GE90–115B turbofan engines with HPC rotor stage 2–5 spools, with:

(1) A serial number listed in either, paragraph 4, Appendix A of GE Service Bulletin (SB) No. GE90–100 SB 72–0499 R01, dated February 5, 2014, in paragraph 4, Appendix A of GE SB GE90–100 SB 72–0659 R01, dated February 18, 2016, or in paragraph 4, Appendix A, of GE SB GE90–100 SB 72–0714 R01, dated February 16, 2018.

(2) A part number (P/N) 351–103–109–0, P/N 351–103–110–0, P/N 351–103–147–0 or P/N 351–103–152–0, with any serial number.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by reports of cracks in HPC rotor stage 2–5 spool aft spacer arms. We are issuing this AD to prevent failure of the HPC rotor stage 2–5 spools. The unsafe condition, if not addressed, could result in uncontained spool release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Remove from service HPC rotor stage 2–5 spools with serial numbers listed in paragraph 4, Appendix A, of GE SB GE90–100 SB 72–0659 R01, dated February 18, 2016, as follows, or before further flight, whichever occurs later:

(i) For spools with fewer than 4,500 flight CSN as of April 21, 2017, remove before exceeding 5,000 CSN.

(ii) For spools with 4,500 CSN or more but fewer than 5,200 CSN as of April 21, 2017, remove within 500 CIS but not to exceed 5,500 CSN.

(iii) For spools with 5,200 CSN or more but fewer than 5,600 CSN as of April 21, 2017, remove within 300 CIS but not to exceed 5,800 CSN.

(iv) For spools with 5,600 CSN or more but fewer than 5,800 CSN as of April 21, 2017, remove within 200 CIS but not to exceed 5,850 CSN.

(v) For spools with 5,800 CSN or more but fewer than 6,000 CSN as of April 21, 2017, remove within 50 CIS but not to exceed 6,000 CSN.

(vi) For spools with 6,000 CSN or more as of April 21, 2017, remove before the next flight.

(2) Remove from service HPC rotor stage 2–5 spools listed in paragraph (c)(2) of this AD and HPC rotor stage 2–5 spools with serial numbers listed in paragraph 4, Appendix A, of GE SB GE90–100 SB 72–0714 R01, dated February 16, 2018, before exceeding 8,200 CSN, or before further flight, whichever occurs later.

(h) Installation Prohibition

(1) After the effective date of this AD, do not install or reinstall onto any engine, any HPC rotor stage 2–5 spool with a serial number listed in paragraph 4, Appendix A, of GE SB No. GE90–100 SB 72–0499 R01, dated February 5, 2014, or paragraph 4, Appendix A, of GE SB GE90–100 SB72–0659 R01, dated February 18, 2016, that exceeds 5,000 CSN.

(2) After the effective date of this AD, do not install or reinstall onto any engine, any HPC rotor stage 2–5 spool listed in paragraph (c)(2) of this AD, or HPC rotor stage 2–5 spool with a serial number listed in paragraph 4, Appendix A, of GE SB GE90–100 SB 72–0714 R01, dated February 16, 2018, that exceeds 8,200 CSN.

(i) 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 (j)(1) 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.

(j) Related Information

(1) For more information about this AD, contact David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@faa.gov.*

(2) For service information identified in this AD, contact General Electric Company, One Neumann Way, Room 285, Cincinnati, OH; phone: 513–552–3272; email: *geae.aoc@ge.com.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued in Burlington, Massachusetts, on June 19, 2018.

Robert J. Ganley,

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

[FR Doc. 2018–13444 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0552; Product Identifier 2018–NM–049–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A. (CASA)) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes. This proposed AD was prompted by reports of failures of the rudder pedal control system support. This proposed AD would require repetitive detailed visual inspections of the rudder pedal control system support box and shaft and applicable corrective actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 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 NPRM, contact Airbus Defense and Space, Services/Engineering support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone: +34 91 585 55 84; fax: +34 91 585 31 27; email: *MTA.TechnicalService@military.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0552; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0552; Product Identifier 2018–NM–049–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0051, dated March 2, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes. The MCAI states:

> Failures were reported of the rudder pedal control system support on CASA C–212 aeroplanes. Subsequent investigation revealed that the welding area of the affected support structure had broken.
>
> This condition, if not corrected, could lead to failure of the rudder [pedal] control system, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, EADS–CASA issued the SB [EADS–CASA Service Bulletin SB–212–27–0057, dated May 21, 2014] to provide modification instructions and EASA issued AD 2017–0036 [which corresponds to FAA AD 2017–19–08, Amendment 39–19038 (82 FR 43835, September 20 2017) (''AD 2017–19–08'')] to require that modification [of the rudder pedal adjustment system]. During accomplishment of that modification, several operators reported difficulties or impossibility to follow the accomplishment instruction. Consequently, EASA and Airbus D&S [Defense and Space S.A.] reviewed the difficulty reports and decided that the modification instructions have to be improved.
>
> Pending the improvement of the instructions of the SB [EADS–CASA Service Bulletin SB–212–27–0057, dated May 21, 2014] and in order to reduce the risk of failure of the [rudder] pedal adjustment system to an acceptable level, Airbus D&S issued the inspection AOT [Airbus Alert Operators Transmission AOT–C212–27–0002, dated February 28, 2018] to provide instructions to repetitively inspect the affected parts [rudder pedal support box Part Number (P/N) 212–46195.1 and shaft P/N 212–46120–20].
>
> For the reasons described above, this [EASA] AD cancels the requirements of EASA AD 2017–0036, which is superseded, and requires repetitive [detailed visual] inspections of the rudder pedal adjustment system [rudder pedal support box P/N 212–46195.1 and shaft P/N 212–46120–20] and, depending on findings, accomplishment of applicable corrective action(s).
>
> This [EASA] AD is considered to be an interim action and further [EASA] AD action may follow.

Corrective actions include obtaining corrective actions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA); and accomplishing the corrective actions within the compliance time specified therein. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0552.

Relationship Between Proposed AD and AD 2017–19–08

This NPRM does not propose to supersede AD 2017–19–08. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This proposed AD would require repetitive detailed visual inspections of the rudder pedal control system support box and shaft and applicable corrective actions. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2017–19–08.

Related Service Information Under 1 CFR Part 51

Airbus Defense and Space S.A. has issued Airbus Alert Operators Transmission AOT–C212–27–0002, dated February 28, 2018. The service information describes procedures for repetitive detailed visual inspections of the rudder pedal control system support box and shaft. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our

bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 36 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 8 work-hours × $85 per hour = Up to $680	$0	Up to $680	Up to $24,480.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A. (CASA)): Docket No. FAA–2018–0552; Product Identifier 2018–NM–049–AD.

(a) Comments Due Date

We must receive comments by August 9, 2018.

(b) Affected ADs

This AD affects AD 2017–19–08, Amendment 39–19038 (82 FR 43835, September 20 2017) (''AD 2017–19–08'').

(c) Applicability

This AD applies to Airbus Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes; manufacturer serial numbers 009, 034, 039, 089, 092, 119, 125, 133, 138, 149, 150, 154, 159, 161, 162, 164, 165, 167 through 169 inclusive, 171, 172, 174, 175, 178, 180, 181, 190, 192, 193, 195, 209 through 212 inclusive, 214 through 216 inclusive, 219 through 222 inclusive, 224 through 227 inclusive, 229, 235, 236, 238, 240, 242, 247 through 257 inclusive, 261 through 263 inclusive, 265, 272 through 282 inclusive, 286, 287, 289 through 292 inclusive, 294, 308, 311, 320, 322 through 324 inclusive, 328, 332, 336, 343, 347 through 349 inclusive, 356, 359, 363, 371, 379, 393, 397, 398, 405, 410, 411, 413, 465, 470, 472, 474, 475, 478, and 480 through 482 inclusive; certificated in any category; except airplanes modified in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–212–27–0057, dated May 21, 2014.

(d) Subject

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

(e) Reason

This AD was prompted by reports of failures of the rudder pedal control system support. We are issuing this AD to prevent failure of the rudder control system, which could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Definitions

(1) For the purposes of this AD, an affected part is defined as a rudder pedal support box having Part Number (P/N) 212–46195.1 and shaft P/N 212–46120–20.

(2) For the purposes of this AD, a discrepancy or defect of the rudder pedal support box P/N 212–46195.1 is defined as any crack or deformation on any welded area.

(3) For the purposes of this AD, a discrepancy or defect of the shaft P/N 212–46120–20 is defined as any crack or deformation.

(h) Repetitive Detailed Visual Inspections

Within 3 months or during the next scheduled A-check maintenance, whichever occurs first after the effective date of this AD, and thereafter, at intervals not to exceed 150 flight hours, do a detailed visual inspection of each affected part in accordance with the instructions of Airbus Alert Operators Transmission AOT–C212–27–0002, dated February 28, 2018.

(i) Corrective Action for Any Discrepancy or Defect

If any discrepancy or defect is detected during any inspection required by paragraph (h) of this AD: Before further flight, obtain corrective actions approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA); and accomplish the corrective actions within the compliance time specified therein. If approved by the DOA, the approval must include the DOA-authorized signature. Accomplishment of a repair, as required by this paragraph, does not constitute terminating action for the repetitive inspections required by paragraph (h) of this AD.

(j) Parts Installation Limitation

As of the effective date of this AD, an affected part may be installed on any airplane provided that it is a new part or that, before installation, the visual inspection required by paragraph (h) of this AD has been accomplished on that part and the part passed the inspection (no discrepancy or defect detected), as required by paragraph (h) of this AD.

(k) Terminating Action for AD 2017–19–08

Accomplishing the actions required by this AD terminates all of the requirements of AD 2017–19–08.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0051, dated March 2, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0552.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

(3) For service information identified in this AD, contact Airbus Defense and Space, Services/Engineering support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone: +34 91 585 55 84; fax: +34 91 585 31 27; email: *MTA.TechnicalService@military.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 14, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–13342 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0479; Product Identifier 2016–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turboprop and Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2018–02–14, which applies to certain Honeywell International Inc. (Honeywell) TPE331 turboprop and TSE331 turboshaft engines. AD 2018–02–14 requires inspection of the affected combustion chamber case assembly, replacement of those assemblies found cracked, and removal of affected assemblies on certain TPE331 and TSE331 engines. Since we issued AD 2018–02–14, we received comments to revise the applicability of that AD to include the TPE331–12B engine model, correct certain TPE engine model typographical errors, and to allow certain weld repair procedures. This proposed AD would expand the applicability of AD 2018–02–14 to include the TPE331–12B engine model, correct certain engine model typographical errors, and allow certain weld repair procedures after approval. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 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 NPRM, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; internet: *https://myaerospace.honeywell.com/wps/portal.* 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.

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–2018–0479; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0479; Product Identifier 2016–NE–23–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We issued AD 2018–02–14, Amendment 39–19167 (83 FR 3263, January 24, 2018), (''AD 2018–02–14''), for certain Honeywell TPE331 turboprop and TSE331 turboshaft engines. AD 2018–02–14 requires inspection of the affected combustion chamber case assembly, replacement of those assemblies found cracked, and removal of affected assemblies on certain TPE331 and TSE331 engines. AD 2018–02–14 resulted from reports that combustion chamber case assemblies have cracked and ruptured. We issued AD 2018–02–14 to prevent failure of the combustion chamber case assembly.

Actions Since AD 2018–02–14 Was Issued

Since we issued AD 2018–02–14, we determined the need to revise sections of that AD. We received comments indicating that the TPE331–12B engine model was inadvertently omitted from that AD and that the TPE331–43–A, –43–BL, –47–A, –55–B, and –61–A engine models included typographical errors. We also received comments to revise the Compliance section, which disallows weld repairs on any combustion chamber case assemblies that are affected by that AD. We determined that allowing weld repair procedures of certain combustion chamber case assemblies with lower stresses may be accomplished if these procedures are approved by the Manager, Los Angeles ACO Branch.

Related Service Information Under 1 CFR Part 51

We reviewed Honeywell Service Bulletin (SB) TPE331–72–2178, Revision 0, dated May 3, 2011 and Honeywell SB TPE331–72–2179, Revision 0, dated May 3, 2011. Honeywell SB TPE331–72–2178, Revision 0, describes procedures for inspection and removal of the affected combustion chamber case assemblies installed on all affected engines except for the TPE331–12B engine model. Honeywell SB TPE331–72–2179, Revision 0, describes procedures for inspection and removal of the affected combustion chamber case assemblies installed on the TPE331–12B engine model. 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 Honeywell SBs TPE331–72–2228, Revision 0, dated June 12, 2014; TPE331–72–2230, Revision 0, dated June 19, 2014; TPE331–72–2218, Revision 2, dated February 18, 2017; TPE331–72–2244, Revision 2, dated March 20 2017; TPE331–72–2235, Revision 2, dated February 18, 2017; TPE331–72–2281, Revision 0, dated July 22, 2016; TPE331–72–2294, Revision 0, dated December 22, 2016; TPE331–72–2231, Revision 1, dated August 1, 2017; and TSE331–72–2245, Revision 0, dated November 11, 2016. These SBs provide guidance on replacement of the affected combustion chamber case assemblies.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2018–02–14. This proposed AD would revise the Applicability to include the TPE331–12B engine model and to correct references to the TPE331–43–A, –43–BL, –47–A, –55–B, and –61–A engine models. This proposed AD would also allow weld repair procedures to the applicable combustion chamber case assemblies provided those procedures are approved by the Manager, Los Angeles ACO Branch.

Costs of Compliance

We estimate that this AD affects 5,644 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
On-wing inspection	1 work-hour × $85 per hour = $85	$0	$85 per inspection	$479,740 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We estimate that 158 engines will need this replacement during the first year of inspection.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the combustion chamber case assembly	1 work-hour × $85 per hour = $85	$15,000	$15,085

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

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–02–14, Amendment 39–19167 (83 FR 3263, January 24, 2018), and adding the following new AD:

Honeywell International Inc. (Type Certificate previously held by AlliedSignal Inc., Garrett Engine Division; Garrett Turbine Engine Company; and AiResearch Manufacturing Company of Arizona): Docket No. FAA–2018–0479; Product Identifier 2016–NE–23–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 9, 2018.

(b) Affected ADs

This AD replaces AD 2018–02–14, Amendment 39–19167 (83 FR 3263, January 24, 2018).

(c) Applicability

This AD applies to Honeywell International Inc. (Honeywell) TPE331–1, –2, –2UA, –3U, –3UW, –5, –5A, –5AB, –5B, –6, –6A, –8, –10, –10AV, –10GP, –10GT, –10N, –10P, –10R, –10T, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, and –11U, –12B, –12JR, –12UA, –12UAR, –12UHR, –25AA, –25AB, –25DA, –25DB, –25FA, –43–A, –43–B, –47–A, –55–B, and –61–A turboprop engine models, including those engine models with a –L stamped after the model number (for example, –43–BL); and TSE331–3U turboshaft engine models with combustion chamber case assemblies, part numbers (P/Ns) 869728–x, 893973–x, 3101668–x, and 3102613–x, where ''x'' denotes any dash number, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Combustion Section.

(e) Unsafe Condition

This AD was prompted by reports that combustion chamber case assemblies have cracked and ruptured. We are issuing this AD to prevent failure of the combustion chamber case assembly. The unsafe condition, if not addressed, could result in failure of the combustion chamber case assembly, in-flight shutdown, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all affected engines:

(i) Inspect all accessible areas of the combustion chamber case assembly, focusing on the weld joints, before accumulating 450 hours time in service (TIS) since last fuel nozzle inspection or within 50 hours TIS after the effective date of this AD, whichever occurs later.

(ii) Perform the inspection in accordance with the Accomplishment Instructions, paragraphs 3.B.(1) through 3.B.(2), in Honeywell Service Bulletin (SB) TPE331–72–2178, Revision 0, dated May 3, 2011, or SB TPE331–72–2179, Revision 0, dated May 3, 2011, as applicable to the affected engine model.

(iii) Thereafter, repeat this inspection during scheduled fuel nozzle inspections at intervals not to exceed 450 hours TIS since the last fuel nozzle inspection.

(2) For TPE331–3U, –3UW, –5, –5A, –5AB, –5B, –6, and –6A engine models with combustion chamber case assemblies, P/Ns 869728–1, 869728–3, or 893973–5, installed, and without the one-piece bleed pad with P3 boss; and for TPE331–1, –2, and –2UA engine models modified by National Flight Services, Inc., supplemental type certificate (STC) SE383CH, remove the combustion chamber case assembly from service at the next removal of the combustion chamber case assembly from the engine, not to exceed 3,700 hours TIS since last hot section inspection.

(3) After the effective date of this AD, do not weld repair the applicable combustion chamber case assemblies unless the weld repair procedures are approved by the Manager, Los Angeles ACO Branch, and that approval specifically refers to this AD.

(h) Definition

(1) TPE331 engines modified by STC SE383CH may be defined as the ''Super 1'' and ''Super 2'' for the compressor modification of the TPE331–1 and the TPE331–2, –2U, and –2UA engine models, respectively.

(2) Figures 1 and 2 to paragraph (h) of this AD illustrate the appearance of combustion chamber case assembly, P/N 893973–5, without and with, respectively, the one-piece bleed pad with the P3 boss.

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Figure 1 to Paragraph (h) of this AD. Combustion Chamber Case Assembly Without the One-Piece Bleed Pad with P3 Boss

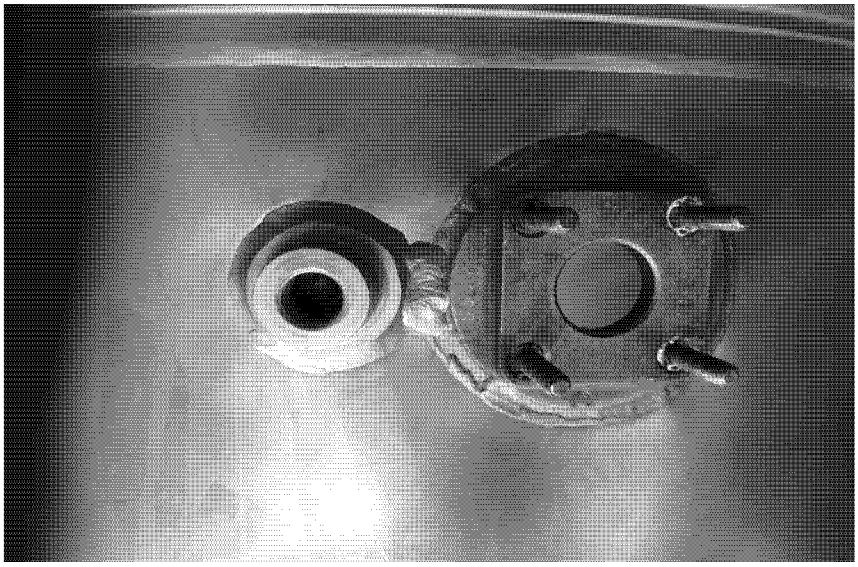
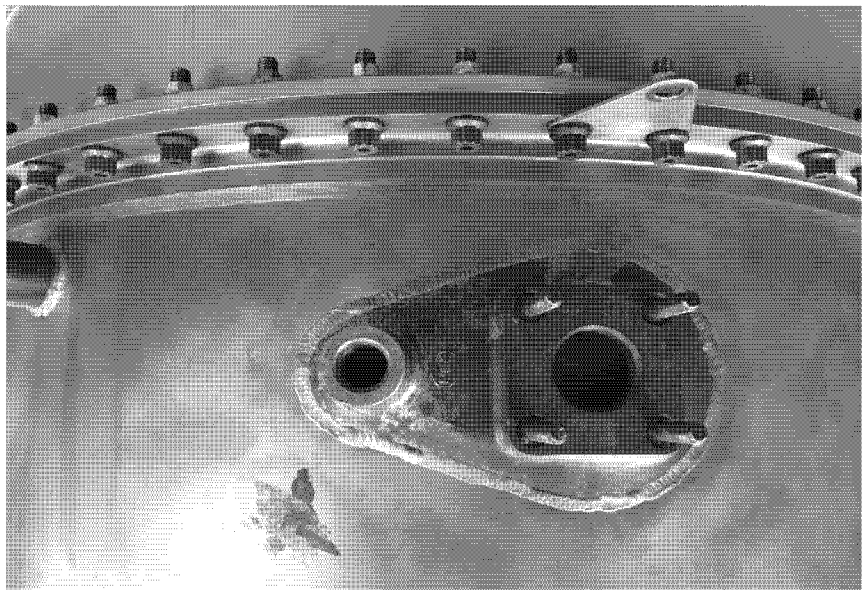


Figure 2 to Paragraph (h) of this AD. Combustion Chamber Case Assembly with One-Piece Bleed Pad with P3 Boss



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(i) Installation Prohibition

After the effective date of this AD, do not install a combustion chamber case assembly, P/N 869728–1, 869728–3, or 893973–5, in TPE331–3U, –3UW, –5, –5A, –5AB, –5B, –6, and –6A engine models or in TPE331–1, –2, and –2UA engine models modified by National Flight Services, Inc., STC SE383CH, unless the combustion chamber case assembly has a one-piece bleed pad with P3 boss.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov*.

(2) For service information identified in this AD, contact AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; internet: *https://myaerospace.honeywell*

.com/wps/portal. 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.

Issued in Burlington, Massachusetts, on June 19, 2018.

Robert J. Ganley,

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

[FR Doc. 2018–13523 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0233; FRL–9979–35—Region 9]

Air Plan Approval; California; San Diego County Air Pollution Control District; Stationary Source Permits and Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve and conditionally approve revisions to the San Diego County Air Pollution Control District's (SDAPCD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) and part D of title I of the Clean Air Act (CAA). This action updates the SDAPCD's applicable SIP with current SDAPCD permitting rules. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 25, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0233 at *http://www.regulations.gov,* or via email to *R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ya-Ting Tsai, EPA Region IX, (415) 972–3328, *Tsai.Ya-Ting@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates when they were adopted by the SDAPCD and submitted by the California Air Resources Board (CARB), which is the governor's designee for California SIP submittals. Collectively, these submittals generally constitute the SDAPCD's current program for preconstruction review and permitting of new or modified stationary sources under its jurisdiction. The rule revisions that are the subject of this action represent a comprehensive revision to the SDAPCD's preconstruction review and permitting program and are intended to satisfy the requirements under part D of title I of the Act (nonattainment NSR or NNSR) as well as the general preconstruction review requirements under section 110(a)(2)(C) of the Act (minor NSR). The SDAPCD does not implement a SIP-approved prevention of significant deterioration (PSD) permitting program and has not submitted the rules in this action for purposes of the PSD program; therefore, we are not evaluating whether this SIP submittal satisfies PSD program requirements at 40 CFR 51.166.

TABLE 1—SUBMITTED RULES

Rule No.	Rule title	Adopted date	Submitted date
11	Exemptions from Rule 10 Permit Requirements	05/11/2016	08/22/2016
20	Standards for Granting Permits	06/10/1986	11/21/1986
20.1	New Source Review—General Provisions	04/27/2016	06/17/2016
20.2 *	New Source Review—Non-Major Stationary Sources	04/27/2016	06/17/2016
20.3 *	New Source Review—Major Stationary Sources and PSD Stationary Sources	04/27/2016	06/17/2016
20.4 *	New Source Review—Portable Emission Units	04/27/2016	06/17/2016
20.6	Standards for Permit to Operate Air Quality Analysis	04/27/2016	06/17/2016
24	Temporary Permit to Operate	06/29/2016	08/22/2016

* The following subsections of the Rules 20.2–20.4 were not submitted to the EPA for inclusion in the San Diego SIP: Rule 20.2 Subsections (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); Rule 20.3 Subsections (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); and Rule 20.4 Subsections (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5).

On October 14, 2016, the EPA determined that the submittal of Rules 20.1, 20.2, 20.3, 20.4 and 20.6 met the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review. On September 27,

2016, we determined that the submitted versions of Rules 11 and 24 met these completeness criteria. On May 21, 1987, the submittal of Rule 20 was deemed complete by operation of law.

In addition to these SIP submittals, on April 27, 2018 the District and CARB transmitted a commitment letter to the EPA to adopt and submit specific enforceable measures by July 31, 2019 to address deficiencies in the submitted rules identified by the EPA.[1]

B. Are there other versions of these rules?

The EPA last approved significant revisions or updates to the SDAPCD's SIP-approved NSR program in the 1980s. The existing SIP-approved NSR program for new or modified stationary sources under the SDAPCD's jurisdiction generally consists of the versions of the rules identified below in Table 2.

TABLE 2—SIP APPROVED RULES

Rule No.	Rule title	SIP approval date	**Federal Register** citation
11	Exemptions from Rule 10 Permit Requirements	07/06/1982	47 FR 29233[2]
20	Standards for Granting Applications	09/22/1972	37 FR 19812
20.1	New Source Review—General Provisions	04/14/1981	46 FR 21757
20.2	New Source Review—Non-Major Stationary Sources	04/14/1981	46 FR 21757
20.3	New Source Review—Major Stationary Sources and PSD Stationary Sources	04/14/1981	46 FR 21757
20.4	New Source Review—Portable Emission Units	04/14/1981	46 FR 21757
20.6	Standards for Permit to Operate Air Quality Analysis	04/14/1981	46 FR 21757
24	Temporary Permit to Operate	10/24/2008	73 FR 63382

Collectively, these regulations establish the NSR requirements that are currently in place for both major and minor stationary sources under the SDAPCD's jurisdiction in California. If the EPA finalizes the action proposed herein, these rules will be replaced in the SIP by the submitted set of rules listed in Table 1.

C. What is the purpose of the submitted rule revisions?

As noted above and described in further detail below, the submitted rules are intended to satisfy the minor NSR and NNSR requirements of section 110(a)(2)(C) and part D of title I of the Act, and related EPA regulations. Minor NSR requirements are generally applicable for SIPs in all areas, while NNSR requirements apply only for areas designated as nonattainment for one or more National Ambient Air Quality Standards (NAAQS). San Diego County is currently classified as a ''moderate'' nonattainment area for the 2008 8-hour ozone NAAQS and is designated attainment or unclassifiable for all other NAAQS. *See* 40 CFR 81.305. Therefore, in addition to being subject to the requirements for minor NSR at section 110(a)(2)(C) of the Act, California is required to adopt and implement a SIP-approved NNSR permitting program that applies to new or modified major stationary sources of ozone and ozone precursors within the San Diego County nonattainment area, under part D of title I of the Act.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

The EPA has evaluated the submitted rules for compliance with applicable requirements of section 110(a)(2)(C) and part D of title I of the CAA and associated regulations at 40 CFR 51.160–165, consistent with the District's current classification as a ''moderate'' nonattainment area for the 2008 8-hour ozone NAAQS. We have also reviewed the rules for consistency with other CAA general requirements for SIP submittals, including requirements at section 110(a)(2) regarding rule enforceability, and requirements at sections 110(l) and 193 for SIP revisions.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate. These requirements, commonly referred to as the ''minor NSR'' or ''general NSR'' program, apply generally to both major and non-major stationary sources and modifications and in both attainment and nonattainment areas, in contrast to the specific statutory and regulatory requirements for PSD and NNSR permitting programs under parts C and D of title I of the Act that apply to major sources in attainment and nonattainment areas, respectively.

Part D of title I of the Act, and the implementing regulations at 40 CFR 51.165, contain the NNSR program requirements for major stationary sources and major modifications (as those terms are defined at 40 CFR 51.165) at facilities that are located in a nonattainment area and are major sources for the pollutants for which the area has been designated nonattainment.

The SDAPCD has elected not to submit rules to satisfy requirements of the PSD program under part C of title I of the Act for major stationary sources in attainment areas at this time. Accordingly, the EPA is not evaluating whether this SIP submittal satisfies PSD program requirements at 40 CFR 51.166, and some portions of Rules 20.2–20.4 addressing major sources in attainment areas are excluded from the submittal. See Table 1. The EPA remains the PSD permitting authority in San Diego County.

Section 110(a)(2)(A) of the Act requires that regulations submitted to the EPA for SIP approval must be clear and legally enforceable. Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990 in a nonattainment

[1] Letter dated April 16, 2018, from Jim Swaney, P.E., to Carol Sutkus and Doris Lo, Subject: ''Commitment Letter to Fix Deficiencies in New Source Review Rules State Implementation Plan Submittal''; letter dated April 27, 2018, from Dr. Michael Benjamin to Alexis Strauss.

[2] The EPA approved Rule 11 in its entirety for incorporation into the California SIP in September 22, 1972 (37 FR 19812) and approved revisions in 1982.

area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and hearing before adopting a SIP revision.

B. Do the rules meet the evaluation criteria?

With the exceptions noted below, the EPA finds that the submitted rules generally satisfy the applicable CAA and regulatory requirements. Accordingly, we are proposing to fully approve Rules 11, 20, and 24 under CAA section 110(k)(3), and to conditionally approve Rules 20.1, 20.2, 20.3, 20.4, and 20.6 under CAA section 110(k)(4). Below, we discuss generally our evaluation of the submitted rules. The technical support document (TSD) included in the docket for this proposed rulemaking contains a more detailed analysis.

We find that the submitted rules satisfy the minor NSR requirements. The rules clearly identify the kinds of projects subject to review under the District's program, include legally enforceable procedures to ensure that construction will not violate the state's control strategy or interfere with attainment or maintenance of the NAAQS, provide for public availability of relevant information, and meet other requirements of the minor NSR regulations at 40 CFR 51.160–164. In general, Rules 11, 20, 20.1, 20.6 and 24 incorporate general regulatory requirements of the minor NSR program, while Rules 20.2, 20.3, and 20.4 apply applicable elements of the program to minor stationary sources, major stationary sources, and portable emission units, respectively.

We find that the submitted rules satisfy nearly all applicable statutory and regulatory NNSR requirements, including definitions, applicability procedures, and requirements for sources in nonattainment areas to obtain emission reduction offsets and comply with the lowest achievable emissions rate. These requirements are met substantially through Rule 20.1, and other elements are addressed in Rules 20.2–20.4. The EPA has identified two deficiencies in the rules. First, the submitted rules do not contain recordkeeping and reporting requirements for sources using an actual-to-potential-actual test to determine applicability of major source requirements. The submitted Rule 20.1 provides an option for sources to use the federal actual-to-potential-actual test under 40 CFR 51.165(a)(2)(ii)(B) through (F); however, the rule does not include associated provisions at 40 CFR 51.165(a)(6) and (7) that require these sources to comply with recordkeeping and reporting requirements. Second, the rules do not incorporate the requirement at section 173(a)(4) of the Act, which states that NNSR permit programs shall provide that permits to construct and operate may not be issued if the EPA Administrator has determined that the applicable implementation plan for the nonattainment area is not being adequately implemented. As described below, these deficiencies are the basis for the EPA's proposed conditional approval of the District's June 17, 2016 submittal.

The submitted rules comply with the substantive and procedural requirements of CAA section 110(l). With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rules, we find that the SDAPCD has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision and has satisfied these procedural requirements under CAA section 110(l).

With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of the submitted rules would strengthen the applicable SIP. The current SIP-approved San Diego NNSR program is significantly out of date when compared with current federal NNSR regulatory requirements, and the updated versions of the submitted rules bring the program up to date with current requirements. As a whole, the submitted rules are more stringent and will be more protective of air quality in San Diego County, and we have determined that our approval of this SIP submittal would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act.

Similarly, we find that the submitted rules are approvable under section 193 of the Act. Most of the submitted rules were last approved prior to November 15, 1990, and are subject to the general requirement to ensure equivalent or greater emission reductions. We have determined that the submitted rules will ensure greater reductions overall relative to the SIP-approved version of the rules.

The submitted rules are otherwise consistent with criteria for the EPA's approval of regulations submitted for inclusion in the SIP, including the requirement at CAA section 110(c)(2)(A) that submitted regulations be clear and legally enforceable.

For the reasons stated above and explained further in our TSD, we find that the submitted NSR rules generally satisfy the applicable CAA and regulatory requirements for minor NSR and NNSR permit programs under CAA section 110(a)(2)(C) and part D of title I of the Act and other applicable requirements, subject to the two exceptions noted above where the EPA has identified a deficiency. For those exceptions, the District and CARB have committed to adopt and submit revisions to address the identified deficiencies within a year of the date of approval, consistent with the requirements at CAA section 110(k)(4) for conditional approval.

C. Proposed Action and Public Comment

Based on our evaluation of the submitted rules, the EPA is proposing to fully approve the SDAPCD's August 22, 2016 and November 21, 1986 submittals (consisting of Rules 11, 20, and 24), and to conditionally approve the District's June 17, 2016 submittal (consisting of Rules 20.1, 20.2, 20.3, 20.4, and 20.6). Under CAA section 110(k)(3), the EPA may approve a plan revision in whole or in part if it meets all applicable requirements. Under CAA section 110(k)(4), the EPA may conditionally approve a plan revision based on a commitment by the state to adopt specific enforceable measures by a date certain but not later than one year after the date of the plan approval.

As described above, the EPA has determined that the submitted rules generally comply with most applicable requirements, but do not satisfy the requirements at 40 CFR 51.165(a)(6) and (7) and section 173(a)(4) of the Act. On April 16, 2018, the District transmitted to CARB and the EPA a commitment to revise the submitted rules by amending Rule 20.1 to incorporate the requirements at 40 CFR 51.165(a)(6) and (7) and by amending Rule 20.3 to incorporate the requirement at CAA section 173(a)(4), and to transmit the revised rules to CARB no later than June 30, 2019. The amendments to Rules 20.1 and 20.3 as described above will cure the deficiencies in Rules 20.2, 20.4, and 20.6. On April 27, 2018, CARB committed to submit these rules to the EPA no later than July 31, 2019. These letters commit the District to adopt specific enforceable measures to correct the rule deficiencies and commit the state to submit them to the EPA by a date certain, and the EPA has determined that if the District adopts and submits these revisions as committed, the identified deficiencies will be cured. Accordingly, we find that

these commitment letters are consistent with CAA requirements regarding conditional approval at CAA section 110(k)(4).

The intended effect of our proposed conditional approval action is to update the applicable SIP with current SDAPCD rules and provide the SDAPCD the opportunity to correct the identified deficiencies. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.220 (Identification of plan—in part) and 40 CFR 52.248 (Identification of plan—conditional approval).

If the State meets its commitment to submit the required measures and the EPA approves the submission, then the deficiencies listed above will be cured. However, if the District fails to submit these revisions within the required timeframe, the conditional approval will become a disapproval, and the EPA will issue a finding of disapproval. The EPA is not required to propose the finding of disapproval. Further, a finding of disapproval would start an 18-month clock to apply sanctions under CAA section 179(b) and a two-year clock for a federal implementation plan under CAA section 110(c)(1).

We will accept comments from the public on this proposal until July 25, 2018.

III. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SDAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 4, 2018.

Michael Stoker,

Regional Administrator, Region IX.

[FR Doc. 2018–13348 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R07–OAR–2017–0349; FRL–9979–84—Region 7]

Approval of Missouri Air Quality Implementation Plans; Redesignation of the Missouri Portion of the St. Louis-St. Charles-Farmington, MO-IL 2008 Ozone Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from the Missouri Department of Natural Resources (MDNR) to redesignate the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL nonattainment area (''St. Louis area'' or ''area'') to attainment for the 2008 ozone National Ambient Air Quality Standard (NAAQS). MDNR submitted this request on September 12, 2016, with a supplemental submission on February 16, 2018, to include a revised motor vehicle emissions budget. EPA is proposing this action because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). As part of this action, EPA is also proposing to approve, as a revision to the Missouri State Implementation Plan (SIP), the state's plan for maintaining the 2008 8-hour ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve, as a SIP revision, the State's 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Missouri portion of the St. Louis area. EPA addressed the Illinois portion of the St. Louis area in a separate rulemaking action on March 1, 2018. 83 FR 8756.

DATES: Comments must be received on or before July 25, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0349, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7214, or by email at *kemp.lachala@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

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I. What is being addressed in this document?

EPA is proposing to approve MDNR's request to change the designation of the Missouri portion of the St. Louis area from nonattainment to attainment for the 2008 ozone NAAQS, based on quality-assured and certified data monitoring data for 2013–2015, and that the Missouri portion of the St. Louis area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

EPA is also proposing to approve the state's maintenance plan as a revision to the Missouri SIP; the maintenance plan is designed to keep the Missouri portion of the St. Louis area in attainment of the 2008 ozone NAAQS through 2030.

Finally, EPA finds adequate and is proposing to approve into the SIP the newly-established 2030 MVEBs for the area. The adequacy comment period for the MVEBs began on April 10, 2018, with EPA's posting of the availability of Missouri's submittal on EPA's Adequacy website (at *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity*). The adequacy comment period for these MVEBs ended on May 10, 2018. EPA did not receive any adverse comments on this submittal during the adequacy comment period. In a letter dated May 15, 2018, EPA informed Missouri that the 2030 MVEBs are adequate for use in transportation conformity analyses. Please see section V.B. of this rulemaking, ''What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the St. Louis area?'' for further explanation of this process.

II. Background Information

EPA has determined that ground-level ozone is detrimental to human health. On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the three-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm at all of the ozone monitoring sites in the area. *See* 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS based on the most recent three years of quality assured ozone monitoring data. The St. Louis area was designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 21, 2012 (77 FR 30088); the designation became effective on July 20, 2012.

In a final implementation rule for the 2008 ozone NAAQS (SIP Requirements Rule),[1] EPA established ozone standard attainment dates based on table 1 of CAA section 181(a). For the areas classified as marginal nonattainment, this established an attainment date three years after the July 20, 2012 effective date.

CAA section 181(b)(2) requires EPA to determine, based on an area's ozone design value as of the area's attainment deadline, whether the area has attained the ozone standard by that date. The statute provides a mechanism by which states that meet certain criteria may request, and be granted by the Administrator, a one year extension of an area's attainment deadline. On May 4, 2016, based on EPA's evaluation and determination that the areas met the criteria of CAA section 181(a)(5), EPA granted the St. Louis area a one year extension of the marginal area attainment date; the revised attainment date became July 20, 2016. 81 FR 26697.

On June 27, 2016, in accordance with CAA section 181(b)(2)(A) and the provisions of the SIP Requirements Rule, EPA determined that the St. Louis area attained the 2008 8-hour ozone standard by its July 20, 2016, attainment date. 81 FR 41444. EPA's determination was based upon three years of complete, quality assured and certified data for the 2013–2015 time period.

On September 12, 2016, with a supplemental revision on February 16, 2018, Missouri submitted to EPA a request to redesignate the Missouri portion of the St. Louis area, to attainment for the 2008 ozone NAAQS, and to approve the maintenance plan for that area, including the 2030 MVEBs, as a revision to the SIP.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of a nonattainment area to attainment of the NAAQS provided that: (1) The Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the

[1] This rule, titled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,'' published on March 6, 2015. 80 FR 12264. The rule addresses nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), new source review (NSR), emission inventories, and the timing requirements for SIP submissions and compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the antibacksliding requirements that apply when the 1997 ozone NAAQS is revoked.

Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Missouri's redesignation request?

A. Criteria (1)—The St. Louis Area Has Attained the 2008-Hour Ozone NAAQS

For redesignation of a nonattainment area to attainment, the CAA section 107(d)(3)(E)(i) requires EPA to determine that the area has attained the applicable NAAQS. An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality assured air quality data for all monitoring sites in the area. To attain the NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the three year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,[2] on average, for the three-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the three year period. *See* section 2.3 of appendix P to 40 CFR part 50.

On June 27, 2016, in accordance with CAA section 181(b)(2)(A) and the provisions of the SIP Requirements Rule, EPA determined that the St. Louis area attained the 2008 ozone NAAQS by its July 20, 2016, attainment date. *See* 81 FR 41444. EPA's determination was based upon three years of complete, quality assured and certified data that had been recorded in AQS for the 2013–2015 time period. The data demonstrated that the St. Louis area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the three-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in table 1.

TABLE 1—ANNUAL 4TH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGES FOR THE ST. LOUIS-ST. CHARLES-FARMINGTON, MO-IL AREA

County	Monitoring site name	4th Highest values			2013–2015 Design value (ppm)
		2013 (ppm)	2014 (ppm)	2015 (ppm)	
St. Charles, MO	Orchard Farm	0.071	0.072	0.066	0.069
St. Charles, MO	West Alton	0.071	0.072	0.070	0.071
St. Louis City, MO	Blair Street	0.066	0.066	0.063	0.065
St. Louis, MO	Maryland Heights	0.070	0.072	0.069	0.070
St. Louis, MO	Pacific	0.067	0.065	0.065	0.065
Jefferson, MO	Arnold West	0.069	0.072	0.069	0.070
Madison, IL	Alhambra	0.071	0.068	0.067	0.068

[2] The ozone season is defined by state in 40 CFR 58 appendix D. The ozone season for the St. Louis area runs from March–October.

TABLE 1—ANNUAL 4TH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGES FOR THE ST. LOUIS-ST. CHARLES-FARMINGTON, MO-IL AREA—Continued

County	Monitoring site name	4th Highest values			2013–2015 Design value (ppm)
		2013 (ppm)	2014 (ppm)	2015 (ppm)	
Madison, IL	Alton	0.072	0.072	0.069	0.071
Madison, IL	Maryville	0.075	0.070	0.064	0.069
Madison, IL	Wood River	0.069	0.070	0.069	0.069
St. Clair, IL	East St. Louis	0.066	0.067	0.066	0.066

The most recent certified, quality assured data for 2017 indicates that the area continues to attain the 2008 ozone NAAQS. If the design value of a monitoring site in the area exceeds the NAAQS after proposal, but before final approval of the redesignation, EPA will not take final action to approve the redesignation of the St. Louis area to attainment.

The three-year ozone design value for 2013–2015 is 0.071 ppm,[3] which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the St. Louis area is attaining the 2008 ozone NAAQS.

B. Criteria (2)—Missouri Has a Fully Approved SIP Under Section 110(k) for the St. Louis Area; and Criteria (5)—Missouri Has Met All Applicable Requirements for the St. Louis Area of Section 110 and Part D of the CAA

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under CAA section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under CAA section 110(k) (*see* section 107(d)(3)(E)(ii) of the CAA). EPA proposes to find that Missouri has met all currently applicable SIP requirements for purposes of redesignation of the St. Louis area to attainment of the 2008 ozone standard under section 110 and part D of the CAA in accordance with section 107(d)(2)(E)(v). In making these proposed determinations, EPA ascertained which CAA requirements are applicable to the St. Louis area and the Missouri SIP and, if applicable, whether the required Missouri SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.[4]

1. Missouri Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Missouri Portion of the St. Louis Area for Purposes of Redesignation

General SIP Requirements. Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants.[5] However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirement is not linked with a particular area's ozone designation and classification. EPA believes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, EPA does not believe these requirements should be construed to be applicable requirements for the purposes of redesignation.[6]

In addition, EPA believes that other section 110 elements are neither connected with nonattainment plan submissions, nor linked with an area's ozone attainment status and are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment for the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate when reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements.[7] EPA has reviewed

[3] The ozone design value for the monitor with the highest three-year averaged concentration.

[4] *See* section 175A(c) of the CAA. *See* September 4, 1992 Calcagni Memorandum. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25418 (May 12, 2003, pages 68 FR 25424 and 68 FR 25427) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS). *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 60 FR 12465–60 FR 12466 (March 7, 1995) (redesignation of Detroit Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS).

[5] Nitrogen oxides (NO_X) are precursor pollutants to ozone formation. On October 27, 1992 (63 FR 57356), EPA issued a NO_X SIP call requiring 22 states and the District of Columbia to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors.

[6] *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 68 FR 25426–27 (May 13, 2003).

[7] *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–61 FR 53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890,

Continued

Missouri's SIP revision and has concluded that it meets the general SIP requirements under section 110 of the CAA to the extent that those requirements are applicable for purposes of redesignation. On March 22, 2018 (83 FR 12496), EPA approved elements of the SIP submitted by Missouri to meet the requirements of section 110 for the 2008 ozone standard. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the ozone nonattainment status of the St. Louis area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the state's ozone redesignation request.

Part D Requirements. Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Missouri portion of the St. Louis area was classified as marginal under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a) (marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of title I (57 FR 13498).

Subpart 1 Section 172 Requirements. As provided in subpart 2, for marginal ozone nonattainment areas such as the St. Louis area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9).[8]

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA most recently approved Missouri's NSR program on June 4, 2015 (80 FR 31844).[9] EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 77 FR 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 66 FR 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 61 FR 31834–61 FR 31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 61 FR 20469–61 FR 20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 61 FR 12467–61 FR 12468, March 7, 1995). Missouri has demonstrated that the area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. Missouri's PSD program will become effective in the area upon redesignation to attainment.

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Missouri SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Subpart 1 Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved.[10] *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nevertheless, Missouri has an approved conformity SIP for the St. Louis-St. Charles-Farmington, MO-IL area. *See* 78 FR 53247 (August 29, 2013).

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) emitted within the boundaries of the ozone nonattainment area. The state's ''Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard'' submitted by the state on September 9, 2014, included a 2011 base year emissions inventory for the Missouri portion of the St. Louis area. EPA approved this emissions inventory as a revision to the Missouri SIP on February 25, 2016 (81 FR 9346).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated before the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available

June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

[8] *See* 42 U.S.C. 7511a(a).

[9] The ''Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard'' submitted by the state on September 9, 2014 noted that the state's NSR program was approved by EPA and that no ''corrections'' needed to be made in the SIP. This SIP revision was approved on February 25, 2016 (81 FR 9346).

[10] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans.

control technology (RACT) rules that were required under section 172(b)(3) before the 1990 CAA amendments. The St. Louis area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Missouri complied with this requirement for the St. Louis area under the prior 1-hour ozone NAAQS.[11]

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program before the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Missouri's redesignation request for this standard, the St. Louis area is not subject to the section 182(a)(2)(B) requirement because the St. Louis area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments.

Regarding the source permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), as previously noted, Missouri currently has a fully-approved part D NSR program in place. The state's ''Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard'' submitted in September 2014, included an offset ratio. As noted in the September 2014 SIP revision, the requirement for emission offset reductions is part of Missouri's NSR program and codified in the state's regulations at 10 CSR 10–6.060(7)(B)1. The corresponding offset ratio for each ozone area classification (*i.e.* 1.1:1 for Marginal) is found in the Federal code at 40 CFR 51.165(a)(3)(9). Thus Missouri has satisfied the CAA section 182(a)(4) requirement for Marginal Area Plan submissions in establishing a Marginal Area emission offset reduction ratio of 1.1:1 in its NSR program by SIP-approved rule consistent with the corresponding Federal code. EPA approved the September 2014 SIP revision on February 25, 2016 (81 FR 9346).

[11] *See* 65 FR 31482 (June 18, 2000) and 61 FR 10968 (March 18, 1996).

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below, Missouri will continue to update its emissions inventory at least once every three years. With regard to stationary source emission statements, EPA last approved Missouri's emission statement rule on March 19, 2015 (80 FR 14312). In MDNR's May 22, 2015 submittal, Missouri stated that this approved SIP regulation remains in place and remains enforceable for the 2008 ozone standard. The state's ''Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard'' SIP revision submitted in September 2014, noted that SIP approved state regulation 10 CSR 10–6.110 *Reporting Emission Data, Emission Fees, and Process Information* requires permitted sources to file an annual report on air pollutant emissions to include emissions data, process information, and annual emissions fees. EPA approved the September 2014 SIP revision on February 25, 2016 (81 FR 9346).

EPA is proposing to approve that the Missouri portion of the St. Louis area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The St. Louis Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

As discussed above, EPA has fully approved the Missouri SIP for the St. Louis area under section 110(k) all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Missouri has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the ozone NAAQS.

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has approved all part D requirements applicable for purposes of this redesignation.

C. Criteria (3)—The Air Quality Improvement in the St. Louis Area Is Due to Permanent and Enforceable Emission Reductions

To support the redesignation of an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA is proposing to determine that Missouri has demonstrated that the observed ozone air quality improvement in the St. Louis area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the state has calculated the change in emissions between 2011 and 2014. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the St. Louis area and upwind areas have implemented in recent years. Based on the information summarized below, Missouri has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR)/ CSAPR Update. CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in twenty seven eastern states, including Missouri, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved Missouri's CAIR regulations into the Missouri SIP on December 14, 2007 (72 FR 71073). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without

vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

The D.C. Circuit's initial vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014).[12] On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets that were originally promulgated to begin on January 1, 2014, began on January 1, 2017.

On November 21, 2014, the Administrator signed an action that published in the **Federal Register** on December 3, 2014 (79 FR 71163), amending the regulatory text of CSAPR to reflect the Court's October 23, 2014, order tolling all deadlines in CSAPR by three years, including provisions governing the sunsetting of CAIR. CAIR therefore sunset at the end of 2014 and was replaced by CSAPR beginning January 1, 2015, which continue to remain in place. Relative to CAIR, CSAPR required similar or greater emission reductions from relevant upwind areas starting in 2015 and beyond, and Missouri's emissions budgets were not affected by the Court's remand of some of the ozone-season and SO_2 budgets.

While the reduction in NO_X emissions from the implementation of CSAPR will result in lower concentrations of transported ozone and ozone precursors entering the St. Louis area throughout the maintenance period, EPA is proposing to approve the redesignation of the St. Louis area without relying on those measures within Missouri as having led to attainment of the 2008 ozone NAAQS or contributing to maintenance of that standard because, as noted above, CSAPR did not go into effect until January 1, 2015. As a general matter, EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional SO_2 and NO_X emission reductions throughout the maintenance period.

In addition, on October 26, 2016 (81 FR 74504), EPA finalized the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update). This new rule replaces the CSAPR rule for purposes of transport of ozone pollution with respect to the 2008 ozone NAAQS. The finalized rule issued a Federal Implementation Plan (FIP) that generally provided updated CSAPR NO_X ozone season emission budgets for the EGUs within twenty two states in the eastern United States, and implements these budgets via modifications to the CSAPR NO_X ozone season allowance trading program established under the original CSAPR. The CSAPR Update rule became effective on December 27, 2016.

b. Federal and State Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures are described below.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NO_X will result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rulemaking. Nationally, EPA estimated that 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. The rule is being phased between 2008 through 2015, and when fully implemented will reduce emissions of NO_X, VOC, particulate matter, and carbon monoxide from these engines. It is estimated that compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90 percent nationwide.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards are phased in

[12] *EME Homer City Generation, L.P.* v. *EPA,* 696 F. 3d 7, 38 (D.C. Cir. 2012).

from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_X emissions. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9684), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule was fully implemented in 2013, NO_X and VOC emissions from these engines would be reduced by approximately 9,600 and 36,000 tons per year, respectively.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

c. Control Measures Specific to the St. Louis Area

Gateway Vehicle Inspection Program. On March 3, 2015 (80 FR 11323), EPA approved Missouri's Gateway Vehicle Inspection Program which is found in the Missouri Code of State Regulation (CSR) at 10 CSR 5.381. This regulation is permanent and enforceable, and will result in continued significant reductions in both NO_X and VOC emissions from 2014 to 2030.

2. Emission Reductions

Missouri is using a 2011 emissions inventory as the nonattainment base year. Area, nonroad mobile, onroad mobile, and point source emissions (EGUs and non-EGUs) were collected from the Ozone NAAQS Implementation Modeling platform (2011v6.1). MDNR also provided an emissions inventory for wildfires (Event) and biogenic sources. For 2011, this represents actual data Missouri reported to EPA for the 2011 National Emissions Inventory (NEI). Because emissions from state inventory databases, the NEI, and the Ozone NAAQS Emissions Modeling platform are annual totals, tons per summer day (tpd) were derived according to EPA's guidance document ''Temporal Allocation of Annual Emissions Using EMCH Temporal Profiles'' dated April 29, 2002, using the temporal allocation references accompanying the 2011v6.1 modeling inventory files.

For the attainment inventory, Missouri used 2014, one of the years the St. Louis area monitored attainment of the 2008 ozone standard. Because the 2014 NEI inventory was not available at the time MDNR was compiling the redesignation request, the state was unable to use the 2014 NEI inventory directly. For area, nonroad mobile, wildfire, and biogenic sources, 2014 emissions were derived by interpolating between 2011 and 2018 Ozone NAAQS Emissions Modeling platform inventories. The point source sector for the 2014 inventory was developed using actual 2014 point source emissions reported to the state database, which serve as the basis for the point source emissions reported to EPA for the NEI. Summer day inventories were derived for these sectors using the methodology described above. Finally, onroad mobile source emissions were developed using the same methodology described above for the 2011 inventory.

Using the inventories described above, Missouri's submittal documents changes in VOC and NO_X emissions from 2011 to 2014 for the Missouri portion of the St. Louis area. Emissions data are shown in tables 2 through 6.

TABLE 2—MISSOURI PORTION OF THE ST. LOUIS AREA NO_X EMISSIONS FOR NONATTAINMENT YEAR 2011

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	27.75	0.49	7.83	5.72
Jefferson	16.66	0.62	12.45	3.33
St. Charles	25.04	0.68	21.04	8.34
St. Louis	16.74	2.65	66.34	23.85
St. Louis City	4.49	1.16	16.55	6.31
Total	90.68	5.60	124.21	47.55

TABLE 3—MISSOURI PORTION OF THE ST. LOUIS AREA VOC EMISSIONS FOR NONATTAINMENT YEAR 2011

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	2.52	3.36	2.4	3.31
Jefferson	1.63	7.48	4.24	3.12
St. Charles	3.34	11.21	6.73	6.23
St. Louis	3.5	38.68	20.17	22.99
St. Louis City	3.59	12.04	4.46	3.38
Total	14.58	72.77	38.00	39.03

TABLE 4—MISSOURI PORTION OF THE ST. LOUIS AREA NO_X EMISSIONS FOR ATTAINMENT YEAR 2014

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	21.13	0.46	8.00	5.24
Jefferson	17.96	0.42	12.87	3.04
St. Charles	21.05	0.89	19.68	7.40
St. Louis	16.79	3.77	60.29	17.53
St. Louis City	4.78	0.93	10.92	5.23
Total	81.71	6.47	111.76	38.44

TABLE 5—MISSOURI PORTION OF THE ST. LOUIS AREA VOC EMISSIONS FOR ATTAINMENT YEAR 2014

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	2.08	5.80	2.57	2.91
Jefferson	1.91	5.44	4.65	2.72
St. Charles	4.12	11.50	7.75	5.25
St. Louis	2.87	35.88	19.01	19.61
St. Louis City	2.88	11.19	4.23	2.92
Total	13.86	69.81	38.21	33.42

TABLE 6—CHANGE IN NO_X AND VOC EMISSIONS IN THE MISSOURI PORTION OF THE ST. LOUIS AREA BETWEEN 2011 AND 2014

[tpd]

	NO_X			VOC		
	2011	2014	Net change	2011	2014	Net change
Point	90.68	81.70	−8.98	14.58	13.86	−0.72
Area	5.60	6.47	0.87	72.77	69.81	−2.96
Onroad	124.21	111.76	−12.45	38.00	38.21	0.21
Nonroad	47.55	38.44	−9.11	39.03	33.42	−5.61
Total	268.04	238.37	−29.67	164.38	155.30	−9.08

As indicated in table 6, total NO_X and VOC emissions decreased by nearly 30 and 9 tpd respectively from the base year to the attainment year.[13] Based on the control measures identified above in conjuction with the emission reductions, Missouri has adequately deomonstrated that the improvement in air quality is due to permanent and enforceable emission reductions.

D. Criteria (4)—The Area Has a Fully Approvable Ozone Maintenance Plan Pursant to Section 175 of the CAA

As one of the criteria for redesignation to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional ten years beyond the initial ten year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

In conjunction with its request to redesignate the Missouri portion of the St. Louis area to attainment for the 2008 ozone standard, MDNR submitted a SIP revision to provide for maintenance of the 2008 ozone standard through 2030, more than ten years after the expected effective date of the redesignation to attainment. As discussed below, EPA is proposing that this maintenance plan meets the requirements for approval under section 175A of the CAA.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. EPA is proposing to find that Missouri's ozone maintenance plan includes these necessary components and, as part of this action, is proposing to approve the maintenance plan as a revision of the Missouri SIP.

1. Attainment Emissions Inventory

EPA is proposing to determine that the St. Louis area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2013–2015. As previously stated, MDNR selected 2014 as the attainment emissions inventory

[13] In a letter submitted by MDNR and received by EPA August 7, 2017, the state provided clarifying information on NOx and VOC emissions. This letter and the original submission can be found in the docket for this action.

year to establish attainment emission levels for NO_X and VOC. The attainment emissions inventory identifies the levels of emissions in the Missouri portion of the St. Louis area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV of this proposed rule. The attainment level emissions, by source category, are summarized in tables 4 and 5.

2. Maintenance Demonstration

Missouri has demonstrated maintenance of the 2008 ozone standard through 2030 by assuring that current and future emissions of VOC and NO_X for the St. Louis area remain at or below attainment year emission levels. A maintenance demonstration does not need to be based on modeling.[14]

Missouri used emissions for the 2014 year as a baseline and compared them to projected emissions for 2020 and 2030 to demonstrate maintenance. The year 2030 is more than ten years after the expected effective date of the redesignation to attainment and the year 2020 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

For point, area, and nonroad emissions inventory development, Missouri estimated 2030 emissions by using the 2014 base year inventory and applying growth factors appropriate for each source category. For area sources, Stage II refueling emissions were calculated using MOVES and assumed that Stage II vehicle refueling vapor recovery controls would no longer be required by 2030.[15]

For non-EGU and nonpoint emissions inventory development, Missouri collected data from the 2011NEIv2-based platform (2011v6.2) inventories for years 2011, 2017, and 2025. Missouri then calculated growth factors for years 2017 and 2025 by dividing 2011 annual emissions by 2017 and 2025 annual emissions. Then, to estimate 2020 and 2030 growth factors, the program interpolated the 2017 and 2025 growth factors and then extrapolated to 2030. Missouri then used the TREND function in Excel to obtain data for 2026–2030. Summer day inventories were derived for these sectors using the methodology described above.

For EGU emissions, Missouri decided to use 2011v6.2 emissions from 2017 for 2020 and emissions from 2025 for 2030 because MDNR believes that it was not appropriate to use the same growth methodology for non-EGUs and EGUs, as growth in the EGU sector depends on energy demand and environmental, transmission, dispatch, and reliability constraints.

Finally, onroad mobile source emissions were developed using EPA's MOVES program with Vehicle Miles Traveled (VMT) data gathered from the East-West Gateway Council of Governments (EWGW) in coordination with the St. Louis Transportation Conformity Interagency Consultation Group. Missouri specifically used MOVES version 2014a-20151201 as it was the latest release at the time of inventory development. In developing the future year inventories, Missouri developed several future year model input tables, specifically age distribution, VMT, and vehicle population tables for 2020 and 2030. These input tables were developed with the help of MODOT, the Federal Highway Administration, and the EWGW. The emissions data for 2020 and 2030 is shown below in tables 7 through 11.

TABLE 7—MISSOURI PORTION OF THE ST. LOUIS AREA NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	30.92	3.11	5.99	4.03
Jefferson	23.58	1.18	4.99	2.19
St. Charles	8.82	2.41	7.89	5.28
St. Louis	21.19	6.37	23.60	12.65
St. Louis City	4.09	3.79	3.95	4.13
Total	88.6	16.87	46.42	28.27

TABLE 8—MISSOURI PORTION OF THE ST. LOUIS AREA VOC EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	2.50	5.87	7.89	2.06
Jefferson	1.75	5.38	2.41	2.17
St. Charles	4.17	11.39	3.90	4.21
St. Louis	3.06	35.03	10.47	17.84
St. Louis City	2.84	11.16	1.97	2.44
Total	14.32	68.86	26.64	28.71

TABLE 9—MISSOURI PORTION OF THE ST. LOUIS AREA NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2030

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	30.92	2.20	3.22	1.97

[14] *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 66 FR 53099–66 FR 53100 (October 19, 2001), 68 FR 25413, 68 FR 25430–68 FR 25432 (May 12, 2003).

[15] Missouri developed and submitted a SIP revision to remove Stage II vapor recovery requirements in the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL area. EPA approved the revision and the action became effective on December 10, 2015. *See* 80 FR 69602.

TABLE 9—MISSOURI PORTION OF THE ST. LOUIS AREA NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2030—Continued

[tpd]

County	Point	Area	Onroad	Nonroad
Jefferson	27.72	0.88	2.73	2.32
St. Charles	8.87	1.81	4.34	5.88
St. Louis	21.75	5.44	13.10	16.93
St. Louis City	3.82	2.70	2.18	2.80
Total	93.08	13.03	25.57	29.90

TABLE 10—MISSOURI PORTION OF THE ST. LOUIS AREA VOC EMISSIONS FOR INTERIM MAINTENANCE YEAR 2030

[tpd]

County	Point	Area	Onroad	Nonroad
Franklin	2.32	5.82	5.45	1.79
Jefferson	1.96	5.38	1.70	2.13
St. Charles	4.17	11.38	2.72	4.04
St. Louis	3.08	35.11	7.21	19.45
St. Louis City	2.78	11.12	1.34	2.60
Total	14.31	68.80	18.42	30.01

TABLE 11—CHANGE IN NO_X AND VOC EMISSIONS IN THE MISSOURI PORTION OF THE ST. LOUIS AREA BETWEEN 2014 AND 2030

[tpd]

	NO_X				VOC			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	81.70	88.6	93.08	11.38	13.86	14.32	14.31	0.45
Area	6.47	16.87	13.03	6.58	69.81	68.86	68.80	−1.01
Onroad	111.76	46.42	25.57	−86.19	38.21	26.64	18.42	−19.79
Nonroad	38.44	28.27	29.90	−8.54	33.42	28.71	30.01	−3.41
Total	238.37	180.16	161.58	−76.79	155.30	138.53	131.54	−23.76

In summary, the maintenance demonstration for the Missouri portion of the St. Louis area demonstrates maintenance of the 2008 ozone standard. It does so by providing emissions information that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls.

Table 11 shows NO_X and VOC emissions in the Missouri portion of the St. Louis area are projected to decrease by 76.79 tpd and 23.76 tpd, respectively, between 2014 and 2030.

In addition, since the St. Louis area covers both Missouri and Illinois, MDNR provided data from the Illinois portion of the St. Louis area. This data is summarized below in table 12 and shows that the Illinois portion of the St. Louis area will also show decreases in NO_X and VOC emissions from 2014 to 2030. This data is provided here for informational purposes only as the EPA is not proposing to redesignate the Illinois portion of the St. Louis area in this action.

TABLE 12—CHANGE IN NO_X AND VOC EMISSIONS IN THE ILLINOIS PORTION OF THE ST. LOUIS-ST. CHARLES-FARMINGTON, MO-IL AREA BETWEEN 2014 AND 2030

[tpd]

	NO_X				VOC			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	23.29	16.81	16.93	−6.36	9.38	9.03	8.53	−0.84
Area	1.53	1.51	1.51	−0.02	19.06	18.39	18.05	−1.00
Onroad	26.94	13.22	6.71	−20.24	10.11	6.38	3.76	−6.36
Nonroad	24.62	18.44	11.31	−13.31	7.47	5.65	5.09	−2.38
Total	76.38	49.98	36.46	−39.93	46.02	39.45	35.43	−10.58

3. Continued Air Quality Monitoring

MDNR has committed to continue to operate the ozone monitors listed in table 1 above and has committed to consult with the EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Missouri remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines. EPA approved Missouri's monitoring plan on December 19, 2017. *See https://www.epa.gov/mo/region-7-states-air-quality-monitoring-plans-missouri.*

4. Verification of Continued Attainment

The State of Missouri has the legal authority to enforce and implement the requirements of the maintenance plan for the Missouri portion of the St. Louis area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. MDNR will continue to operate the current ozone monitors located in the Missouri portion of the St. Louis area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.[16]

In addition, to track future levels of emissions, MDNR will continue to develop and submit to the EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Missouri was compiled for 2014. Point source facilities are covered by Missouri's emission statement rule, 10 CSR 10–6.110 (Reporting Emission Data, Emission Fees, and Process Information), and they will continue to submit VOC and NO_X emissions on an annual basis.

[16] EPA approved the 2016 Missouri Monitoring Network Plan on December 29, 2016.

5. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as the EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify the following items: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Missouri has adopted a contingency plan for the Missouri portion of the St. Louis area to address possible future ozone air quality problems. The contingency plan adopted by Missouri has two levels of response, a warning level response and an action level response.

In Missouri's plan, a Level I warning would occur if the fourth highest 8-hour ozone concentration at any monitoring site in the maintenance area (including sites in Missouri and Illinois) exceeds 0.079 ppm in any year. A warning level response will consist of Missouri conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The evaluation will be completed as expeditiously as possible, but no later than twenty-four months after MDNR has determined that a Level I trigger has occurred.

In Missouri's plan, an action Level II response is triggered when a violation (based on the average of the last three (3) years' 4th highest maximum daily 8-hour average concentrations (40 CFR 50.15)) of the NAAQS at any monitoring station in the maintenance area occurs. When an action level response is triggered, MDNR will conduct an analysis to determine the appropriate measures to address the cause of the violation. This analysis will be completed within six months of the violation. Selected measures will be implemented as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of the selected measure. The state committed to the implementation of contingency measures, under Level I or Level II triggers, taking place as expeditiously as practicable, but in no event later than twenty-four months after the state makes a determination that a trigger has occurred, based on quality-assured ambient data that has been entered into AQS. Missouri included the following list of potential contingency measures in its maintenance plan:

- Identify local sources with significant NO_X and/or VOC emissions and develop controls through rules, NSR/PSD permits, or consent agreements;
- Work with MODOT and EWGW to implement transportation control measures (TCMs) through the Transportation Planning Process;
- Lower the applicability thresholds in existing rules that control NO_X and VOCs;
- Lower emission limits in existing rules, specifically revisit current RACT rules;
- Develop new, or strengthen Alternative Control Techniques (ACTs) and Control Technique Guidelines (CTGs) for NO_X and VOC sources;
- Develop rules to address contributing parts of Missouri outside of the St. Louis-St. Charles-Farmington, MO-IL area;
- Enhance the Heavy-Duty Diesel Anti-Idling Program;
- Update 10 CSR 10–6.130 (Controlling Emissions During Episodes of High Air Pollution Potential), specifically: Lowering the alert/action trigger levels, amending the rule to require alert/action level abatement plans at more facilities, and requiring existing abatement plans to be amended with more current emission reduction measures;
- Review other states' or multi-state organizations' rules and determine their applicability and effectiveness (*i.e.,* reviewing the Ozone Transport Commission (OTC) model rules).

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: An attainment emission inventory, a maintenance demonstration, continued air quality monitoring, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b)

of the CAA, the state has committed to submit to the EPA an updated ozone maintenance plan eight years after redesignation of the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL area to cover an additional ten years beyond the initial ten-year maintenance period. Thus, the maintenance plan SIP revision submitted by MDNR for the Missouri portion of the St. Louis area meets the requirements of section 175A of the CAA, EPA proposes to approve it as a revision to the Missouri SIP.

V. Has the state adopted approvable Motor Vehicle Emission Budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth the EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas.[17] These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.[18]

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan; a state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system and is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

B. What is the status of the EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the St. Louis area?

When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, the EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out at 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004).

As discussed earlier, Missouri's maintenance plan includes NO_X and VOC MVEBs for the Missouri portion of the St. Louis area for 2014 and 2030, the attainment level year and the last year of the maintenance period. EPA reviewed the VOC and NO_X MVEBs with the adequacy process. Missouri's September 12, 2016 and February 16, 2018, maintenance plan SIP submissions, including the VOC and NO_X MVEBs for the area, were open for public comment on EPA's adequacy website on April 10, 2018, at: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.*

The EPA public comment period on adequacy of the 2030 MVEBs for the Missouri portion of the St. Louis area closed on May 10, 2018. No comments on the submittal were received during the adequacy comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor's designee, was subject to a state public hearing, and was developed as part of an interagency consultation process which includes Federal, state, and local agencies. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 8-hour ozone standard.

TABLE 13—MVEBS FOR THE MISSOURI PORTION OF THE ST. LOUIS AREA

[tpd]

	Attainment year 2014 onroad emissions	2030 estimated onroad emissions	2030 mobile safety margin allocation	2030 MVEBs
VOC	38.21	18.42	3.58	22
NO_X	111.76	25.57	14.43	40

[17] *See* the SIP requirements for the 2008 ozone standard in the EPA's March 6, 2015 implementation rule (80 FR 12264).

[18] *See* 40 CFR 93.101.

As shown in table 13, the 2030 MVEBs exceed the estimated 2030 onroad sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, MDNR allocated a portion of the safety margin (described further below) to the mobile sector. Missouri has demonstrated that the Missouri portion of the St. Louis area can maintain the 2008 ozone NAAQS with mobile source emissions in the area of 22 tpd of VOC and 40 tpd of NO_X in 2030, since despite partial allocation of the safety margin, emissions will remain under attainment year emission levels. Based on this analysis, the St. Louis area should maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

Therefore, EPA has found that the MVEBs are adequate and is proposing to approve the MVEBs for use in determining transportation conformity in the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL area.

C. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in table 11, the emissions in the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL area are projected to have safety margins of 76.79 tpd for NO_X and 23.76 tpd for VOC in 2030 (the difference between the attainment year 2014 emissions, and the projected 2030 emissions for all sources in the Missouri portion of the St. Louis-St. Charles-Farmington, MO-IL area). Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance since emission levels would equal less than those in the attainment year.

As shown in table 13 above, Missouri is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2030, Missouri is allocating 3.58 tpd and 14.43 tpd of the VOC and the NO_X safety margins, respectively. MDNR is not requesting allocation to the MVEBs of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the state is requesting MVEBs that exceed the projected onroad mobile source emissions for 2030 contained in the maintenance demonstration, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Proposed Action

EPA is proposing to determine that the Missouri portion of the St. Louis nonattainment area is attaining the 2008 ozone standard based on quality-assured and certified monitoring data for 2013–2015 and that the Missouri portion of the St. Louis area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

EPA is also proposing to approve the state's request to change the designation of the Missouri portion of the St. Louis area for the 2008 ozone standard from nonattainment to attainment. EPA is also proposing to approve, as a revision to the Missouri SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Missouri portion of the St. Louis area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-establisheed 2030 MVEBs for the Missouri portion of the St. Louis area.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 13, 2018.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 2018–13442 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 151

[EPA–HQ–OLEM–2018–0024; FRL–9979–83–OLEM]

RIN 2050–AG87

Clean Water Act Hazardous Substances Spill Prevention

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is

proposing to establish no new requirements under Clean Water Act (CWA), section 311. This section directs the President to issue regulations to prevent discharges of oil and hazardous substances from onshore and offshore facilities, and to contain such discharges. On July 21, 2015, EPA was sued for failing to comply with the alleged duty to issue regulations to prevent and contain CWA hazardous substance discharges. On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between EPA and the litigants that required EPA to sign a notice of proposed rulemaking pertaining to the issuance of hazardous substance regulations, and take final action after notice and comment on said notice. Based on an analysis of the frequency and impacts of reported CWA HS discharges and the existing framework of EPA regulatory requirements, the Agency is not proposing additional regulatory requirements at this time. This proposed action is intended to comply with the Consent Decree and to provide an opportunity for public notice and comment on EPA's proposed approach to satisfy the CWA requirements.

DATES: Comments must be received on or before August 24, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2018–0024, ''Clean Water Act Hazardous Substances Discharge Prevention Action'' at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov/.* The EPA may publish any comments received on its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Stacey Yonce, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 564–2288, *yonce.stacey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What is the statutory authority for this proposed action?

This proposal is authorized by section 311(j)(1)(C) of the CWA.

B. Does this proposed action apply to me?

A list of entities that could be affected by requirements established under CWA section 311(j)(1)(C) is provided in Table 1:

TABLE 1—POTENTIALLY AFFECTED ENTITIES

Industry	NAICS
Wired and Wireless Telecommunications	51711, 51721.
Oil and Gas Extraction	21111.
Water Supply and Irrigation Systems	22131.
Farm Supplies Merchant Wholesalers	42491.
Electric Power Generation, Transmission and Distribution	2211.
Support Activities for Crop Production	11511.
Warehousing and Storage	4931.
Food Manufacturing	311.
Chemical Manufacturing	325.
Other Merchant Wholesalers, Nondurable Goods	424.
Mining and Quarrying	21.
Utilities	22.
Construction	23.
Manufacturing	31–33.
Wholesale and Retail Trade	42, 44–45.
Transportation and Warehousing	48–49.
Other	11, 51–56, 61–62, 71–72, 81, 92.

NAICS = North American Industry Classification System.

The list of potentially affected entities in Table 1 may not be exhaustive. The Agency's aim is to provide a guide for readers regarding those entities that potentially could be affected by this action. However, this action may affect other entities not listed in this table. If you have questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**

C. What is the purpose of this proposed action?

The purpose of this proposal is to provide opportunity for public notice and comment on EPA's proposed approach to satisfy the requirements of CWA section 311(j)(1)(C) pertaining to CWA hazardous substances (HS).

II. Background

A. Statutory Authority and Delegation of Authority

CWA section 311(j)(1)(C) directs the President to issue regulations establishing procedures, methods, and equipment; and other requirements for equipment to prevent discharges of oil and HS from vessels and from onshore facilities and offshore facilities, and to contain such discharges.[1] The President

[1] 33 U.S.C. 1321(j)(1)(C).

has delegated the authority to regulate non-transportation-related onshore facilities and offshore facilities landward of the coastline, under section 311(j)(1)(C) of the CWA to EPA.[2]

B. Legislative Background

The term ''hazardous substance'' is defined in CWA section 311(a)(14). Section 311(b)(2)(A) authorizes regulations designating HS, which when discharged in any quantity into jurisdictional waters,[3] present an imminent and substantial danger to public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

Once a chemical was designated as a CWA HS, as described in Section II.C, the corresponding quantity was established by regulation under the authority of CWA section 311(b)(4).[4] The CWA prohibits discharges of CWA HS in quantities that may be harmful in section 311(b)(3).

C. Regulatory Background

In March 1978, EPA designated a list of CWA HS in 40 CFR part 116. EPA established reportable quantities for those substances in 40 CFR part 117 in August 1979 (see, for example, 43 FR 10474, March 13, 1978; 44 FR 50766, August 29, 1979). In September 1978, EPA proposed to establish requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plans to prevent CWA HS discharges from facilities subject to permitting requirements under the National Pollution Discharge Elimination System (NPDES) program of the CWA (43 FR 39276, September 1, 1978). The Agency proposed to require owners and operators to develop CWA HS SPCC Plans that included, among other things, general requirements for appropriate containment, drainage control and/or diversionary structures; and specific requirements for the proper storage of liquids and raw materials, preventive maintenance and housekeeping, facility security, and training for employees and contractors. EPA did not finalize that proposed CWA HS SPCC rule. There is no information in the record to explain the reason the 1978 proposal was not finalized.

D. Litigation Background

On July 21, 2015, the Environmental Justice Health Alliance for Chemical Policy Reform, People Concerned About Chemical Safety, and the Natural Resources Defense Council filed a lawsuit[5] against EPA for failing to comply with the alleged duty to issue regulations to prevent and contain CWA HS spills from non-transportation-related onshore facilities, including aboveground storage tanks, under CWA section 311(j)(1)(C).

On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between EPA and the litigants establishing a schedule under which EPA is to sign ''a notice of proposed rulemaking pertaining to the issuance of the Hazardous Substance Regulations'' and take final action after notice and comment on said notice.[6]

E. Public Outreach

EPA held three public meetings in 2016 to gain early input from stakeholders that EPA should consider during the rulemaking development. A public meeting was held in Charleston, West Virginia, on November 2; and two virtual public meetings were held on November 29 and December 1. EPA received input from a variety of stakeholders, including nongovernmental organizations, local governments, private citizens, and representatives from industry and trade organizations. Topics addressed in these discussions included:

- Establish spill prevention and right-to-know requirements for chemicals.
- Require secondary containment and inspections of primary and secondary containment to assure continued compliance.
- Require information about downstream public water intakes to allow prompt notification after a spill.
- Concerns about CBI should not prohibit notifying residents about the risks of the chemicals stored or released.
- EPA must enforce standards for them to be effective.
- A number of Federal and state regulations already require spill prevention measures and EPA should not establish redundant or conflicting requirements.

The public input received is available in the docket.[7]

F. Additional Information Collection

We intend to supplement the information that this action is based on with an additional information collection. This information collection would be a voluntary survey of U.S. states, tribes, and territories that would request information on the number and type of facilities with CWA HS onsite; historical discharges of CWA HS; the ecological and human health impacts of those discharges; and existing state, territory, and Tribal programs that address discharge prevention of CWA HS. EPA anticipates using the results of the survey to further inform this regulatory action.[8]

III. Proposed Action

EPA is proposing no new regulatory requirements under the authority of CWA section 311(j)(1)(C) at this time. This determination is based on an analysis of identified CWA HS discharges, and an evaluation of the existing framework of EPA regulatory requirements relevant to preventing and containing CWA HS discharges.

The Agency set forth to determine what regulatory requirements under CWA section 311(j)(1)(C) would be appropriate to prevent CWA HS discharges. To this end, EPA analyzed the frequency of and reported impacts of the identified CWA HS discharges.

Next, EPA identified an analytical framework of discharge prevention, containment, and mitigation provisions,

[2] Under Executive Order 12777(b)(1), the Department of the Interior has redelegated the authority to regulate non-transportation-related offshore facilities landward of the coastline to EPA (see 40 CFR part 112, Appendix B). A Memorandum of Understanding (MOU) between the U.S. Department of Transportation (DOT) and EPA (36 FR 24080, November 24, 1971) established the definitions of transportation- and non-transportation-related facilities. An MOU among EPA, DOI, and DOT, effective February 3, 1994, has redelegated the responsibility to regulate certain offshore facilities from DOI to EPA.

[3] The CWA 311 jurisdiction applies to discharges or substantial threats of discharges into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone; in connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*); or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States [including resources under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)] (''jurisdictional waters''). See 33 U.S.C. 1321(b)(1) and 33 U.S.C. 1321(c).

[4] CWA section 311(b)(4) provides for the President to, by regulation, determine for the purposes of this section, those quantities of oil and any hazardous substances, the discharge of which may be harmful to the public health or welfare or the environment of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

[5] Complaint for Declaratory and Injunctive Relief, *Environmental Justice Health Alliance from Chemical Policy Reform* v. *EPA,* 15–cv–5705 (S.D.N.Y. July 21, 2015).

[6] Envtl. Justice Health All. for Chem. Reform v. U.S. EPA, No. 15–cv–05075, ECF No. 46 (S.D.N.Y. Feb. 16, 2016).

[7] A summary of the input is available on the EPA website at: *https://www.epa.gov/rulemaking-preventing-hazardous-substance-spills/summary-public-input-clean-water-act-cwa-hazardous,* as well as in the docket for this proposal: Docket ID #: EPA–HQ–OLEM–2018–0024.

[8] On September 21, 2017, EPA issued a notice in the **Federal Register** (82 FR 44178) that identified plans to submit an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval, and provided a 60-day public comment period.

or program elements, commonly found in discharge and accident prevention regulatory programs. EPA then conducted a review of existing EPA regulatory programs to determine which regulations, such as NPDES, Resource Conservation and Recovery Act (RCRA), Risk Management Program (RMP), and others include these program elements and also apply to CWA HS.

Based on the reported frequency and impacts of identified CWA HS discharges, and the Agency's evaluation of the existing framework of EPA regulatory requirements relevant to preventing CWA HS discharges, EPA has determined that the existing framework of regulatory requirements serves to prevent CWA HS discharges. Additionally, EPA identified relevant requirements in other Federal regulatory programs and determined that they further serve to prevent CWA HS discharges, providing additional support for this proposed action.

A. CWA HS Discharge History and Impacts Analysis

1. Discharge History and Reported Impacts

EPA analyzed CWA HS discharges reported to the National Response Center (NRC) [9] over a 10-year period to estimate the frequency of CWA HS discharges and to understand the reported impacts of these discharges to communities that were potentially affected.[10] 40 CFR 117.21 requires immediate notification to the NRC once the person in charge of a vessel or an offshore or onshore facility has knowledge of a discharge of a designated CWA HS from the facility in quantities equal to or exceeding, in any 24-hour period, the reportable quantity.

During 2007–2016, the NRC received reports of 285,867 releases of all kinds (including for example of oil, chemical, radiological, biological to a variety of media). EPA then further analyzed the data to identify discharges of CWA HS that impacted water from facilities in EPA's regulatory jurisdiction. Based on the NRC database review [11] and recognizing the data limitations discussed further in Section III.A.3, EPA identified 9,416 reports of CWA HS discharges out of the total received (3.3 percent) for this time period. Of these CWA HS discharge reports, the Agency further refined the analysis by identifying 3,140 reports that were reported to have reached water (see discussion below on NRC data limitations). Within that universe, 2,491 (less than one percent of the reports) were identified as CWA HS discharges reported to have originated from non-transportation-related sources.

EPA further analyzed the NRC data to examine how many of the CWA HS discharges to water from non-transportation-related facilities had reported impacts. This information was supplemented with reported impact data for identified CWA HS discharges from the National Toxic Substance Incidents Program (NTSIP).[12] Impacts reported to NRC and NTSIP include evacuations, injuries, hospitalizations, fatalities, waterway closures, and water supply contamination. A total of 117 CWA HS discharge reports (4.7 percent) included one or more of these impacts out of the 2,491 identified CWA HS discharges to water, reported as originating from non-transportation-related sources over the 10-year period analyzed.

EPA seeks comment on the approach used to analyze the frequency of CWA HS discharges and to quantify the impacts of CWA HS discharges. Specifically, EPA requests additional data sources, information, and approaches that may allow EPA to further revise or refine the estimated impacts of CWA HS discharges from non-transportation-related sources, nationally.

2. Most-Frequently Discharged CWA HS

In addition to determining the frequency of CWA HS discharges, EPA also analyzed the reporting data to identify the CWA HS most frequently discharged. Of 292 CWA HS currently designated in 40 CFR part 116, the following 13 CWA HS comprised the majority of identified discharges, as well as the majority of identified discharges with reported impacts (Table 2).

TABLE 2—MOST FREQUENTLY DISCHARGED CWA HS

CWA HS	CAS No.	Chemical class	Number of discharges	Number w/impacts
Polychlorinated Biphenyls (PCBs)	1336–36–3	Organic	1,322	21
Sulfuric Acid (>80%)	7664–93–9	Acid	185	14
Sodium Hydroxide	1310–73–2	Base	147	4
Ammonia	7664–41–7	Weak Base	112	18
Benzene	71–43–2	Organic	91	8
Hydrochloric Acid	7647–01–0	Acid	91	9
Chlorine (liquid/solid)	7782–50–5	Base	81	13
Sodium Hypochlorite	7681–52–9	Base	81	1
Toluene	108–88–3	Organic	38	1
Phosphoric Acid	7664–38–2	Acid	34	0
Styrene	100–42–5	Organic	21	1
Nitric Acid (fuming)	7697–37–2	Acid	19	4
Potassium Hydroxide	1310–58–3	Base	18	0
Total			2,240	94

[9] The NRC is the designated federal point of contact for reporting all oil, chemical, radiological, biological, and etiological discharges and releases into the environment anywhere in the United States and its territories. The NRC maintains a national database of these reports.

[10] EPA recognizes that historical CWA HS discharges do not predict future incidents. EPA reviewed the CWA HS discharge history to gain insight into the frequency and impact of past CWA HS discharges.

[11] This review is described in detail in the Regulatory Impact Analysis in the docket (Docket ID No. EPA–HQ–OLEM–2018–0024) for this proposed action.

[12] The Agency for Toxic Substances and Disease Registry's NTSIP collects and combines information from many resources to protect people from harm caused by spills and leaks of toxic substances. NTSIP gathers information about harmful spills into a central place. People can use NTSIP information to help prevent or reduce the harm caused by toxic substance incidents. NTSIP can also help experts when a release does occur. See *https://www.atsdr.cdc.gov/ntsip/* for additional information.

These 13 CWA HS make up 90 percent of all identified CWA HS discharges to water from non-transportation-related facilities and 80 percent of the 117 identified CWA HS discharges with reported impacts.

3. NRC Data Limitations

a. Discharge History Limitations

The Agency looked to the NRC database as the best readily available source of information on CWA HS discharges in the United States. However, EPA recognizes its limitations. The NRC database is based on notifications of CWA HS discharges, and thus is dependent on the reporting individuals for comprehensiveness and accuracy of the information provided.

NRC reports are generally received immediately following an incident, often before a facility has accurate and complete information about the discharge. There is no requirement to update the information reported to the NRC; sometimes, the information available in the database includes inaccuracies regarding, among others, the substance reported, the quantity reported, the source, and the nature or impacts of the discharge. Further, some discharges may not be reported to the NRC, or the NRC may be notified of discharges that do not equal or exceed the reportable quantity. EPA has no information to assess or characterize the uncertainty associated with information reported to the NRC, the extent of under-reporting (failure to report a discharge), or the extent of over-reporting (discharges reported that are not subject to notification requirements).

Furthermore, the analysis conducted focused on those discharges that impacted water, but no additional determination was conducted to determine if the waters impacted were jurisdictional.[13]

b. Discharge Impact Limitations

There may be additional impacts (*i.e.,* beyond evacuations, injuries, hospitalizations, fatalities, waterway closures, and water supply contamination) from the universe of CWA HS discharges to water from non-transportation-related facilities, which were not required to be reported to the NRC and, thus, could not be quantified in this analysis. These may include the loss of productivity due to a facility or process unit shutting down as a result of a discharge, emergency response and restoration costs, transaction costs such as the cost of resulting litigation, damages to water quality, fish kills, or impacts to property values due to changes in perceived risk or reduced ecological services. EPA was not able to identify sources of data to quantify these impacts, other than the cited data from NRC or NTSIP and some limited information about fish kills that is made publicly available by a few states. The NRC and NTSIP data are discussed and analyzed in the RIA. The information EPA identified on fish kills is included in the docket.

c. Additional Efforts To Gather Data

EPA's initial data gathering efforts for this proposed action focused on assessing the scope of historical CWA HS discharges and identifying relevant industry practices and regulatory requirements related to preventing CWA HS discharges. EPA began to develop an information collection request (ICR) with a voluntary survey intended for facilities with CWA HS. EPA intended to collect information on current prevention practices and other facility-specific information that would inform the selection of prevention program elements for a proposed rule (*e.g.,* storage capacity, types of storage equipment). However, EPA revised the focus of the survey after recognizing uncertainties in the estimate of the universe of potentially-subject facilities and the impacts associated with the 10-year CWA HS discharge data.

EPA intends to collect information from states to refine:

- The estimate of the universe of potentially-regulated facilities, and
- The analysis of CWA HS discharges in the 10-year period analyzed.

EPA provided notice on September 21, 2017 (82 FR 44179) of plans to submit an ICR to the OMB for review and approval of a voluntary survey intended for U.S. states, tribes, and territories. On April 10, 2018 (83 FR 15387) EPA provided notice that the ICR has been submitted to OMB for review and provided an additional 30-day public comment period.

EPA anticipates using any relevant information obtained through survey responses to further inform development of a regulatory action. If new information is received that informs the rulemaking, EPA will publish a notice to allow an opportunity for public review and comment of the information, as appropriate.

B. Analysis of Existing Regulatory Programs

1. Program Elements

The Agency assessed current discharge prevention practices and technologies based on a review of existing EPA and other Federal regulatory programs.[14] To further inform this analysis, EPA also reviewed state regulatory programs and industry standards, which are sometimes incorporated into state or Federal regulations as requirements. The purpose of this regulatory review was to identify common discharge and accident prevention, control and mitigation provisions that would serve to prevent, contain, or mitigate CWA HS discharges. EPA also analyzed past CWA HS discharges to determine what program elements could prevent or minimize impacts from these types of discharges in the future. Finally, EPA considered stakeholder input from the 2016 public meetings when identifying program elements (*e.g.,* secondary containment and inspections, and downstream water notifications). See section II.E for a description of the early stakeholder input opportunities for this action.

EPA identified a framework of discharge prevention, containment, and mitigation provisions, or program elements, commonly found in discharge and accident prevention regulatory programs. These program elements are listed in Table 3 and discussed below and in the Background Information Document (BID).[15]

[13] Jurisdictional waters include navigable waters of the United States or adjoining shorelines, or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*), or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

[14] Indiana's Department of Environmental Management took a similar approach when developing a report of aboveground storage tank rules and regulations. See IDEM's Report of Aboveground Storage Tank Rules and Regulations Pursuant to SEA 312; November 2015. *https://www.in.gov/idem/cleanwater/files/ast_rules_overview.pdf.*

[15] The analysis did not include administrative provisions, such as recordkeeping, which would normally be included in a regulatory program.

TABLE 3—PROGRAM ELEMENTS AND ASSOCIATED PROVISIONS

Program elements	Sample owner/operators requirements
Prevention Provisions:	
Safety Information	Maintain and review Safety Data Sheets (SDS).
Hazard Review	Review materials and operations at a facility, identify potential CWA HS discharge scenarios, and address them. Examples of resulting hazard mitigation measures could include storage container compatibility, engineering controls (*e.g.,* uninterrupted power source) to address expected weather events, overfill prevention, explosion-proof requirements, and facility security measures.
Mechanical Integrity	Conduct preventive maintenance inspections, including process equipment and process control equipment, and implement appropriate corrective actions within specified timeframes.
Personnel Training	Conduct initial and periodic personnel training for employees and contractors on proper facility operations, including any discharge prevention, mitigation, and response practices.
Incident Investigations	Investigate CWA HS discharge causes, identify ways to prevent recurrence, document findings, and implement appropriate corrective actions.
Compliance Audits	Review and document compliance with regulatory requirements. This could be an in-house or third-party review.
Containment Provisions:	
Secondary Containment	Install and maintain secondary containment or diversionary structures to prevent a CWA HS discharge from reaching a waterway. Requirements could include specifications for size requirements, freeboard for precipitation, and imperviousness.
Mitigation Provisions:	
Emergency Response Plan	Develop an emergency response plan that includes information and procedures needed in the event of a discharge to mitigate the impacts of the discharge, ensure the safety of responders and facility personnel, and to notify potential receptors.
Coordination with State and Local Responders.	Coordinate with state and local responders on response and notification procedures prior to a CWA HS discharge.

A summary of the program elements is included below.

a. Safety Information

As part of prevention planning, owners/operators should maintain and review safety information about the chemicals they handle and the equipment involved in their operations. Knowledge and understanding of this information could serve to maintain overall safe operations, reducing the potential for CWA HS discharges. Chemical safety information, for example, would be useful when conducting a hazards review, developing a mechanical integrity program, or developing training materials for equipment operators.

Examples of safety information include SDS, as well as manufacturers' specifications for operating equipment. A safety information program element ensures that facility personnel have information to help them understand the safety-related aspects of their materials, equipment, and processes; and recognize the limits that are placed on their operations.

b. Hazard Review

The hazard review process is intended to identify potential chemical or operational hazards present in a process. The task of identifying potential hazards could inform changes in operations that would prevent CWA HS discharges. A hazard review could provide information key to the proper design, construction, and operation of facility equipment/systems (*e.g.,* identifying a risk of corrosion that can be mitigated by ensuring compatibility of the container with the stored material) or choosing engineering controls (*e.g.,* identifying a risk of overfilling may lead to installing alarms or an automatic shutoff mechanism, installing an uninterrupted power supply in case of loss of power). Hazard review program provisions could be designed to focus facilities on identifying process hazards that may cause a discharge in order to control or prevent these discharges.

c. Mechanical Integrity Program

Process equipment widely varies and may include, for example, containers, piping, valves, pumps, loading racks, reactors, control systems, vents or relief devices, wastewater treatment systems, or other equipment that could be potential sources of CWA HS discharges. Facilities develop and implement mechanical integrity programs to ensure proper equipment operation and maintenance, which not only serve to prevent CWA HS discharges, but can also ensure operational reliability and safe operation at a facility.

Mechanical integrity provisions may include procedures for inspections (*e.g.,* inspect pressure relief valves, gasket and seal integrity), testing, and appropriate corrective action by qualified personnel to prevent equipment failures before they cause a discharge. Specific to the prevention of CWA HS discharges, mechanical integrity provisions may, for example, serve to avoid equipment leaks and container failures. Failure of operational equipment (*e.g.,* pumps or tanks) or instrumentation (*e.g.,* overfill alarms) can weaken active prevention measures and result in CWA HS discharges.

d. Personnel Training

Training programs for employees and/or contractors help ensure they are aware of proper and/or safe operating procedures, chemical hazards, discharge prevention and containment measures, and response procedures. A training program aims to reduce operator errors that could lead to CWA HS discharges and educate operators on the proper implementation of discharge prevention measures.

Personnel training can also strengthen the implementation of other program elements, such as hazard review or mechanical integrity, by helping employees understand operational procedures established by those program elements. Training programs may include specific prevention and response procedures, which have been developed to prevent, contain, and mitigate CWA HS discharges; or include more general provisions for the safe and proper operation of equipment to prevent accidents due to operator error.

e. Incident Investigations

Incident investigations examine the causes of a discharge after it has occurred. Lessons learned from incident investigations can then be applied to inform future prevention activities, and may result in improvements to

operational methods, process design, or preventative maintenance procedures with the goal of preventing future CWA HS discharges. Incident investigation requirements may include conducting the investigation, documenting the findings, developing procedures to address the findings, and sharing the results with relevant employees.

Incident investigation provisions applicable to CWA HS discharges may serve to document findings of a discharge and implement appropriate corrective actions aimed at preventing future discharges. For example, depending on the identified cause of a CWA HS discharge, one-time corrective actions could be implemented (*e.g.,* installing an engineering control), or a programmatic or management approach could be implemented through another program element (*e.g.,* changes to a preventive maintenance inspection schedule under the mechanical integrity program, or changes to employee training materials).

f. Compliance Audits

Compliance audits serve as a mechanism to evaluate and measure a facility's compliance with regulatory requirements. An audit reviews a facility's operations and practices to determine whether or not applicable regulatory requirements are being met. Compliance audits identify deficiencies and opportunities for improvement, and may be accomplished by in-house personnel or by an outside third party. A compliance audit could be accomplished by a Professional Engineer or other person with liability/professional standards and knowledge of the specific processes and applicable regulations.

A compliance audit provision could provide facility management with a mechanism for oversight of implementation of CWA HS discharge prevention practices, and could include reports documenting the audit and follow-up actions.

g. Secondary Containment

When properly designed and maintained, secondary containment systems can prevent discharges to jurisdictional waters. Secondary containment provisions could include dikes, berms, diversionary structures, sumps, spill kits, or other means of preventing discharges of CWA HS into jurisdictional waters. Secondary containment systems provide a second line of defense in the event of a failure of the primary containment, such as bulk storage containers, plant equipment, portable containers, or piping. Secondary containment design considerations may include passive or active measures, appropriate volumes, impermeability of containment structures, and freeboard for precipitation.

Secondary containment provisions for CWA HS equipment could require, for example, specific sizing requirements for a worst-case discharge (*e.g.,* construction of secondary containment sized to contain a CWA HS discharge from the largest container) or a typical discharge incident (based on a most-likely scenario); design specifications to address impervious construction; maintenance provisions, including inspections to ensure the designed capacity is maintained (*e.g.,* by removing rainwater or other debris); and corrective actions to ensure that inspection results are addressed.

h. Emergency Response Plan

Emergency response plans describe immediate response actions to be taken after a CWA HS discharge in order to mitigate the impacts of the discharge, and may include key information that could be quickly accessed when needed. These plans identify not only the steps to be taken by facility personnel to mitigate the severity and environmental impacts of a discharge, to make appropriate notifications to local, state and Federal authorities, and also typically includes safety information to protect employees and emergency responders. Including an emergency response plan as part of a prevention program is complementary, since it requires facility owners/operators to proactively (*i.e.,* in advance of the discharge) gather information and develop immediate actions to be initiated quickly following a CWA HS discharge. Additional considerations for emergency response plans may include procedures for notifying potential receptors of the CWA HS discharge or requirements to have ready access to information about proper medical treatment for ingestion of CWA HS that impact drinking water supplies.

i. Coordinating Emergency Response Plan With State and/or Local Responders

Coordination between facility personnel and state and/or local responders on the content of the facility's emergency response plan allows for an information exchange that can improve emergency responders' understanding of the potential hazards onsite and ensure an effective response following a discharge.

For example, Local Emergency Planning Committees (LEPCs) include representatives from the local community (including elected state and local officials; police, fire, civil defense, and public health professionals; facility representatives; and community group representatives). LEPCs develop an emergency response plan for the community, and provide information about chemicals in the community to citizens. Where there is no active LEPC, different entities such as fire departments, emergency management agencies, police departments, or public health agencies may be planning and/or assisting in an incident response.

Coordination with state and local responders prior to a CWA HS discharge could help mitigate the impacts of a CWA HS discharge (*e.g.,* allow for a timely shutdown of downstream drinking water intakes). Provisions could require facility personnel to share their emergency response plans with the appropriate local or state entities that would respond in the event of a CWA HS discharge. This could include an LEPC, as well as other local authorities in charge of coordinating source water protection for public drinking water systems or for other receptors.

2. Existing Regulatory Requirements

EPA analyzed the Federal programs and corresponding regulations identified in Table 4, focusing on these program elements, to better understand the existing regulatory requirements, practices, and technologies currently used at facilities to prevent CWA HS discharges. These regulatory programs were selected because they include discharge or accident prevention requirements and were identified as regulating at least some CWA HS; or regulating at least some facilities that produce, store, or use CWA HS. For example, the SPCC rule in 40 CFR part 112 was reviewed because more than 50 percent of the 2,491 identified CWA HS discharges in the NRC data were discharges of PCBs, reported as present in transformer oil. Storage and handling of transformer oil is subject to the SPCC rule when a facility meets the applicability criteria of 40 CFR part 112.

TABLE 4—REVIEWED FEDERAL PROGRAMS AND CORRESPONDING REGULATIONS

Federal programs/regulations	Authorizing statute	Code of Federal Regulations citation
EPA		
NPDES Multi-Sector General Permit (MSGP) for Industrial Stormwater (2015).	CWA	40 CFR part 122.
RMP Rule	Clean Air Act (CAA)	40 CFR part 68.
SPCC Rule	CWA	40 CFR part 112.
Pesticide:		
• Pesticide Management and Disposal • Worker Protection Standard.	Federal Insecticide, Fungicide, and Rodenticide Act.	40 CFR part 165, 40 CFR part 170.
RCRA:		
• For Generators of Hazardous Waste • For Hazardous Waste Treatment, Storage, and Disposal Facilities	Resource Conservation and Recovery Act (RCRA).	40 CFR part 262; 40 CFR parts 264 and 265.
Requirements for Underground Storage Tanks (USTs)	RCRA	40 CFR part 280.
EPCRA:		
• Emergency Planning and Notification • Hazardous Chemical Reporting	Emergency Planning and Community Right-to-Know Act (EPCRA).	40 CFR part 355; 40 CFR part 370.
Pulp, Paper, and Paper Board Effluent Guidelines	CWA, CAA	40 CFR part 430.
Occupational Safety and Health Administration (OSHA)		
OSHA: • Process Safety Management (PSM) • Hazardous Waste Operations and Emergency Response (HAZWOPER). • Hazard Communication Standard (HCS). • Emergency Action Plans (EAPs).	Occupational Safety and Health Act.	29 CFR part 1910.
Mine Safety and Health Administration (MSHA)		
MSHA Regulations	Federal Mine Safety and Health Act (Mine Act).	30 CFR parts 46–48, 50, 56–57.
Department of Transportation Programs		
Pipeline Hazardous Materials Safety Administration (PHMSA) Regulations.	Hazardous Materials Transportation Act (HMTA).	49 CFR parts 171–185.
Department of Interior/Office of Surface Mining Reclamation and Enforcement (OSMRE)		
Surface Mining Control and Reclamation Act (SMCRA) Requirements	SMCRA	30 CFR parts 700–999.

a. NPDES MSGP for Industrial Stormwater (2015)

The CWA NPDES Permit Program, authorized by the CWA, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. An NPDES permit establishes limits on what can be discharged, monitoring and reporting requirements, and other provisions to protect water quality. In essence, the permit translates general requirements of the CWA into specific provisions tailored to the operations of the facility discharging pollutants. Regulations at 40 CFR 122.26(b)(14)(i)–(xi) require stormwater discharges associated with specific categories of industrial activity to be covered by NPDES permits, unless otherwise excluded. An NPDES general permit may be written to establish requirements that apply to eligible facilities with similar operations and types of discharges that obtain authorization to discharge under the general permit. Many states are currently authorized to issue NPDES permits for industrial stormwater.

This review focused on the provisions in one industrial stormwater general permit, the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, issued by EPA in 2015.[16] The MSGP is a general permit that is available to facilities that do not discharge to a state with NPDES permitting authority. Because many states model their industrial stormwater permits after EPA's permit, it was used to identify prevention requirements likely to be present in NPDES industrial stormwater permits issued by states.

NPDES stormwater permits for industrial activity contain effluent limits that correspond to required levels of technology-based and water quality-based controls for discharges (CWA 402(p)(3)(A)). In the MSGP, most of the effluent limits are expressed as non-numeric pollution prevention or best management practice (BMP) requirements for minimizing the pollutant levels in the discharge (40 CFR 122.44(k)). To identify existing requirements relevant to preventing CWA HS discharges, EPA focused on non-numeric effluent limitations in Section 2 of the permit, including good housekeeping and maintenance requirements, and Stormwater Pollution Prevention Plan requirements in Section 5 of the MSGP.

The 2015 MSGP for Industrial Stormwater includes discharge

[16] EPA focused on stormwater permits for this review because the requirements apply where stormwater from an industrial property has the potential to discharge to a waterway. The MSGP's requirements apply to all pollutants present in the regulated stormwater discharge, including all toxic pollutants, conventional pollutants, and non-conventional pollutants. As such, the MSGP controls what this notice refers to as CWA HS. Further, the MSGP permit is representative of stormwater permits in general.

prevention and response measures to minimize stormwater contamination (see part 2.1.2.4 of the MSGP). These requirements include plainly labeling containers susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur; and implementing procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.

Applicability criteria. The industrial sectors and activities covered by the MSGP are listed in Appendix D of the permit, while another version of that list of industries is included in Appendix N. The permit is meant to control and minimize pollutants in stormwater discharges associated with specific categories of industrial activities. This permit is available only to facilities that meet the eligibility criteria described in the MSGP where EPA is the permitting authority. Regulated facilities under the jurisdiction of authorized states are expected to be subject to similar provisions in a state-issued NPDES permit.

The term ''pollutant'' is defined at 40 CFR 122.2 as ''dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.'' The definition of pollutant is considered to include all CWA HS.

Equipment or operations at which requirements apply. The permit's requirements apply to discharges of stormwater from activities and areas at a regulated industrial plant, including industrial processes and activities such as material handling, material storage, and equipment maintenance and cleaning.

b. RMP Rule (40 CFR Part 68)

The Chemical Accident Prevention Provisions, also known as the RMP Rule, require facilities that use certain listed, regulated substances to develop and implement a RMP. The RMP Rule is authorized by the Clean Air Act (CAA). Regulated facilities are also required to develop an RMP, which must identify the potential effects of a chemical accident, identify steps the facility is taking to prevent an accident, and spell out emergency response procedures should an accident occur. Regulated facilities must submit a single RMP for all covered processes at the facility; these plans must be revised and resubmitted every five years.

Applicability criteria. The RMP requirements apply to facilities (stationary sources) that manufacture, use, store, or otherwise handle more than a threshold quantity of a regulated substance in a process. The RMP Rule provides a List of Regulated Substances under section 112(r) of the CAA. The 140 RMP-regulated substances, and their threshold quantities, are listed at 40 CFR 68.130. The list includes 77 acutely toxic chemicals that can cause serious health effects or death from short-term exposures, as well as 63 flammable gases and highly volatile flammable liquids that have the potential to form vapor clouds and explode or burn if released. RMP-regulated substances include some CWA HS. The rule defines three program levels based on the processes' relative potential for public impacts and the level of effort needed to prevent accidents. For each program level, the rule defines requirements that reflect the level of risk and effort associated with the processes at that level. As a result, different facilities covered by the regulation may have different requirements depending on their processes.

Equipment or operations at which requirements apply. The RMP requirements apply to facilities that have more than a threshold quantity of a regulated substance in a process. Therefore, the requirements in the rule apply to processes. A process means any activity involving a regulated substance including any use, storage, manufacturing, handling, or onsite movement of such substances, or combination of these activities. For example, 40 CFR 68.25 requires that, for each process at the stationary source, the facility owner/operator analyze and report worst-case release scenarios.

c. SPCC Rule (40 CFR Part 112)

The portion of the Oil Pollution Prevention regulation known as the SPCC Rule, authorized by the CWA, is designed to protect public health, public welfare, and the environment from potential harmful effects of oil discharges to navigable waters or adjoining shorelines. The SPCC Rule requires certain facilities that could reasonably be expected to discharge oil in quantities that may be harmful into jurisdictional waters or adjoining shorelines to develop and implement SPCC Plans. Subparts A through C of 40 CFR part 112 are often referred to as the SPCC Rule. The SPCC Plan includes several elements to prevent oil spills, including a facility diagram, oil discharge predictions, secondary containment or diversionary structures, overfill prevention, requirements for inspections, transfer procedures, personnel training, and a five-year plan review.

Applicability criteria. The SPCC Rule applies to any owner or operator of a non-transportation-related onshore or offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which, due to its location, could reasonably be expected to discharge oil in quantities that may be harmful. The rule applies to facilities with an aboveground storage capacity of more than 1,320 gallons of oil (except farms [17]), or a completely buried storage capacity of more than 42,000 gallons of oil. The rule has a number of exemptions, such as an exemption for containers used for wastewater treatment.

While the SPCC Rule applies only to oil, it regulates oil mixed with other substances, including a CWA HS. The definition of oil can be found in 40 CFR 112.2: ''Oil means oil of any kind or in any form, including, but not limited to: Fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.''

Equipment or operations at which requirements apply. Some SPCC requirements apply facility-wide and some apply to specific equipment. For example, 40 CFR 112.7(f) requires that all oil-handling personnel must be trained in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and the contents of the facility SPCC Plan. Alternatively, the integrity testing and inspection provisions found at 40 CFR 112.8(c)(6) apply to bulk storage containers.

[17] Farms are exempt under two circumstances: (1) If the farm has less than 6,000 gallons of aboveground storage and no reportable oil discharge history; or (2) has 2,500 gallons or less of aboveground storage, regardless of reportable oil discharge history.

d. Pesticide Management Regulation (Pesticide Management and Disposal, 40 CFR Part 165)

The Pesticide Management and Disposal regulation establishes standards for pesticide containers and repackaging as well as label instructions to ensure the safe use, reuse, disposal, and adequate cleaning of the containers. Pesticide registrants and refillers (who are often distributors or retailers) must comply with the regulations, and pesticide users must follow the label instructions for cleaning and handling empty containers. Specifically, the Pesticide Management Regulation at part 165 establishes standards and requirements for pesticide containers, repackaging pesticides, and pesticide containment structures (§ 165.1). Twenty-one states implement pesticide containment regulations in lieu of federal containment regulations in 40 CFR part 165.

Applicability criteria. The requirements apply to chemicals that meet the definition of pesticide. One hundred and nine designated CWA HS may be used as pesticides subject to the 40 CFR part 165 FIFRA requirements.

Equipment or operations at which requirements apply. Most requirements in 40 CFR part 165 apply to containers and pesticide manufacturers are responsible for meeting these requirements. For example, 40 CFR 165.25(a) and 165.45(a) require pesticide containers to meet certain DOT packaging requirements even if the pesticide is not a DOT hazardous material. Similarly, § 165.65(e) requires visual inspection of a refillable container before repackaging a pesticide product into it, to determine whether the container meets the necessary criteria with respect to continued container integrity, required markings, and openings.

The regulation also includes requirements that apply to the area where stationary containers are stored and/or pesticide dispensing areas. For example, 40 CFR 165.85 provides design and capacity requirements for secondary containment structures at these areas. The requirements at § 165.90(a)(1) further state that containment structures must be managed in a manner that prevents pesticides or materials containing pesticides from escaping from the containment structure.

e. Pesticide Worker Protection Standard (Pesticide Agricultural Work Protection Standard, 40 CFR Part 170)

FIFRA regulates worker safety through Workplace Protection Standards in 40 CFR part 170. Farms, forests, nurseries, and greenhouses that handle pesticides used to produce agricultural plant crops must adopt workplace practices designed to reduce or eliminate exposure to pesticides, and must follow procedures for responding to exposure-related emergencies.

Applicability criteria. The requirements apply to chemicals that meet the definition of pesticide. One hundred and nine designated CWA HS may be used as pesticides subject to the 40 CFR part 165 FIFRA requirements.

Equipment or operations at which requirements apply. The Worker Protection Standard requirements in 40 CFR part 170 apply to employers of pesticide workers and handlers. For example, 40 CFR 170.501 requires employers to provide training to all pesticide handlers (who mix, load, and apply agricultural pesticides) every 12 months.

f. RCRA Generators Regulation (Standards Applicable to Generators of Hazardous Waste, 40 CFR Part 262)

This RCRA Rule establishes cradle-to-grave hazardous waste management standards for generators of hazardous waste as defined by § 260.10. These generator regulations ensure that hazardous waste is appropriately identified and handled in a manner that protects human health and the environment, while minimizing interference with daily business operations.

The rule sets forth a process for generators of solid waste to determine if their wastes are hazardous, and for generator category determination (based on the amount of hazardous waste generated each month). It provides manifest requirements, pre-transport (*e.g.,* packaging, labeling) requirements, and recordkeeping and reporting requirements for both small and large quantity generators. Some generators are also subject to preparedness, prevention, and emergency response requirements.

Applicability criteria. The RCRA Generators Regulation applies to generators of hazardous waste. Hazardous wastes, defined in § 261.3, may include specifically ''listed'' hazardous wastes, or ''characteristic'' hazardous wastes evaluated based on four criteria (ignitability, corrosivity, reactivity, and toxicity). Some listed hazardous wastes are CWA HS (*e.g.,* toluene), and some CWA HS would meet criteria for characteristic hazardous wastes at certain concentrations if the CWA HS were present as waste. RCRA regulations apply only to waste materials (as opposed to raw materials or intermediate products). This rule establishes different requirements for very small, small, and large quantity generators of hazardous waste.

Equipment or operations at which requirements apply. Some provisions apply to facility areas. For example, 40 CFR 262.252 requires that all subject areas must be equipped with an internal communications or alarm system, a device to summon emergency assistance, portable fire extinguishers and other fire/spill control equipment, and adequate volumes of water or foam-producing equipment. Other provisions apply to packages. For example, § 262.31 requires that the generator must label each package of hazardous waste in accordance with the applicable DOT regulations on hazardous materials (49 CFR part 172).

g. RCRA TSD Regulations (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, 40 CFR Parts 264 and 265)

The purpose of the RCRA Treatment, Storage, and Disposal Facilities (TSDF) Standards is to establish minimum national standards for the acceptable management of hazardous waste.

Part 264 applies to permitted TSDFs, while part 265 applies to interim status facilities. Both parts 264 and 265 provide general facility and unit-specific operating requirements to assure that a facility is operated in a manner that is protective of human health and the environment.

Applicability criteria. The standards apply to owners and operators of facilities that treat, store, or dispose of hazardous waste. Hazardous waste is defined in § 261.3. Hazardous wastes may include specifically ''listed'' hazardous wastes; or ''characteristic'' hazardous wastes, which are identified as hazardous based on four criteria (ignitability, corrosivity, reactivity, and toxicity.) Some listed hazardous wastes are CWA HS (*e.g.,* toluene); and some CWA HS would meet criteria for characteristic hazardous wastes at certain concentrations, if the CWA HS were being discarded and thus a waste. A facility includes all contiguous land, structures, and appurtenances on or in the land used for treating, storing, or disposing of hazardous waste.

Equipment or operations at which requirements apply. The standards in 40 CFR parts 264 and 265 include facility-wide requirements, such as good housekeeping provisions, as well as unit-specific design and operating criteria. A single facility may consist of several types of operational units (*e.g.,* containers, tank systems, surface impoundments, waste piles, landfills,

incinerators). The unit-specific technical requirements are designed to prevent the release of hazardous waste into the environment. For example, § 264.184 includes container-specific requirements governing design and operating requirements for storage area containment systems.

h. UST Rule (Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280)

UST regulations, authorized by RCRA, are intended to reduce the chance of releases from USTs, detect leaks and spills when they do occur, and secure a prompt cleanup. The regulations require owners and operators to properly install UST systems and protect their USTs from spills, overfills, and corrosion; they also require correct filling practices to be followed. In addition, owners and operators must report new UST systems, suspected releases, and UST system closures; and they must keep records of operation and maintenance.

Applicability criteria. These requirements are specific to UST systems greater than 110 gallons in capacity that store either petroleum or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) hazardous substances. All designated CWA HS are also defined as CERCLA hazardous substances. Specific parts of the regulation (*e.g.,* § 280.42) apply to hazardous substance UST systems and petroleum UST systems, both defined in 40 CFR 280.12.

Equipment or operations at which requirements apply. Some requirements apply to equipment. For example, the compatibility requirements at 40 CFR 280.32 state that UST systems must be made of or lined with materials that are compatible with the substance stored in the UST system. Other requirements apply to areas or processes. For example, areas directly surrounding the tanks are protected by requirements such as the spill and overfill control measures in § 280.30, which calls for the constant monitoring of transfer operations.

i. EPCRA Planning Rule (Emergency Planning and Notification, 40 CFR Part 355)

The EPCRA planning rule requires regulated facilities to provide information necessary for developing and implementing state and local emergency response plans. It also requires emergency notification in the event of a release of a regulated chemical. The facility owner/operator must designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator, and provide notice to the LEPC (§ 355.20(b)).

Applicability criteria. The emergency planning requirements in 40 CFR part 355 apply to facilities with an extremely EHS onsite in amounts equal to or greater than its designated threshold planning quantity (TPQ). EHS is defined in Appendices A and B of 40 CFR part 355. EHS include 65 substances, all of which are also designated as CWA HS.

The emergency release notification requirements in 40 CFR part 355 apply to facilities that produce, use, or store a hazardous chemical, and that also release a reportable quantity of either an EHS or a CERCLA hazardous substance as defined by CERCLA. All CWA HS are defined as CERCLA hazardous substances.

Equipment or operations at which requirements apply. These requirements apply to an entire facility.

j. EPCRA Reporting Rule (Hazardous Chemical Reporting: Community Right to Know, 40 CFR Part 370)

The EPCRA reporting rule establishes reporting requirements for facilities to provide state and local officials with information on hazardous chemicals present at the facility. The information submitted by the facilities must also be made available to the public.

Applicability criteria. This rule applies to facilities that are required by the OSHA HazCom regulation to have an SDS available, and handle or store hazardous chemicals in quantities that equal or exceed the following thresholds:

- For EHS, either 500 pounds or the TPQ, whichever is lower. EHS is defined in Appendices A and B of 40 CFR part 355.
- For all other hazardous chemicals, 10,000 pounds. A hazardous chemical is defined by OSHA HazCom at 29 CFR 1910.1200(c) and § 1910.1200(c) defines chemical. This definition includes all CWA HS.

Equipment or operations at which requirements apply. The hazardous chemical reporting requirements in 40 CFR part 370 apply to individual chemicals rather than process equipment. For example, regulated facilities must submit an SDS for the subject chemicals to the LEPC, the State Emergency Response Commission (SERC), and the local fire department as described in §§ 370.30 to 370.33.

k. Pulp and Paper Effluent Guidelines (Pulp, Paper and Paperboard Effluent Guidelines, 40 CFR Part 430)

The requirements at 40 CFR part 430 were promulgated as part of the ''Cluster Rule'' for the Pulp, Paper, and Paperboard Industry; are authorized by the CWA and CAA; and establish requirements under multiple statutes for multiple environmental media. The Cluster Rule was included in EPA's review of existing requirements because it includes BMPs for spent pulping liquor, soap, and turpentine in § 430.03, which includes spill prevention and control measures and the requirement to develop a BMP Plan.

Applicability criteria. These requirements apply to any pulp, paper, or paperboard mill that discharges or may discharge process wastewater pollutants to the waters of the United States; or that introduces or may introduce process wastewater pollutants into a publicly owned treatment works.

The relevant BMPs apply specifically to direct and indirect discharging pulp, paper, and paperboard mills with pulp production in Subparts B and E of part 430 in order to prevent spills and leaks of spent pulping liquor, soap, and turpentine. Subparts B (Bleached Papergrade Kraft and Soda) and E (Papergrade Sulfite) define effluent limitations for a limited number of CWA HS.

Equipment or operations at which requirements apply. The requirements apply to pieces of equipment and process areas. For example, 40 CFR 430.03(c)(2)(i) requires regular visual inspections of process areas with equipment items in spent pulping liquor service. As another example, under 40 CFR 430.03(c)(4), the mill must establish a program of initial and refresher training of operators, maintenance personnel, and other technical and supervisory personnel who have responsibility for operating, maintaining, or supervising the operation and maintenance of equipment items in spent pulping liquor, soap, and turpentine service.

l. Other Federal Programs

Although the analysis of existing EPA regulations is the basis for this proposal, EPA reviewed other Federal regulations with prevention requirements that may be applicable to CWA HS. For more information about these requirements, see Background Information Document: Review of Relevant Federal and State Regulations; Docket ID #: EPA–HQ–OLEM–2018–0024.

- OSHA Regulations
  - Emergency Action Plans (EAPs), 29

CFR 1910.38
- ○ Process Safety Management of Highly Hazardous Chemicals (PSM), 29 CFR 1910.119
- ○ Hazardous Waste Operations and Emergency Response (HAZWOPER), 29 CFR 1910.120
- ○ HazCom, 29 CFR 1910.1200

- Mine Safety and Health Administration (MSHA) Regulations
  - ○ Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines (Training, Sand and Gravel Mines), 30 CFR part 46
  - ○ Hazard Communication (HazCom), 30 CFR part 47
  - ○ Training and Retraining of Miners (Training), 30 CFR part 48
  - ○ Notification, Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines (Accident Notification), 30 CFR part 50
  - ○ Safety and Health Standards—Surface Metal and Nonmetal Mines, 30 CFR part 56
  - ○ Safety and Health Standards—Underground Metal and Nonmetal Mines, 30 CFR part 57
- Pipeline and Hazardous Materials Safety Administration (PHMSA) Hazardous Materials Regulations, 49 CFR parts 171–185
- Surface Mining Control and Reclamation Act of 1977 (SMCRA) Regulations, 30 CFR parts 700–999

m. State Programs and Industry Standards

EPA also identified state regulatory programs,[18] which regulate the proper handling and storage of chemicals to prevent accidents and discharges, and industry standards that establish technology standards and recommend practices prudent for proper operation and maintenance. A review of these state programs and industry standards is presented in the BID.

3. Regulatory Coverage of the Nine Program Elements

EPA cross-referenced the regulatory requirements for the Federal programs in Table 4—*Reviewed Federal Programs and Corresponding Regulations* with the nine program elements in Table 3—*Program Elements and Associated Provisions* to identify existing regulatory programs that include discharge prevention, control, and mitigation provisions. The relevance of each EPA/Federal program and corresponding regulations to the cross-referenced program elements and their associated provisions is summarized in Table 5—*Review of EPA and Other Federal Regulations for Program Elements,* and is discussed in detail in the BID available in the docket for this proposal.[19] For each regulatory program, this high-level analysis documents provisions related to each of the nine program elements identified.

The analysis indicates that, for all nine program elements, there are existing cumulative EPA regulatory requirements under various programs for accident and discharge prevention relevant to CWA HS. Similarly, existing cumulative requirements under Federal regulatory programs administered by other Federal agencies and departments (*i.e.,* OSHA, MSHA, PHMSA, and OSMRE) reflect, under various accident and discharge prevention programs, all nine program elements. This information is summarized in detail in the BID. For example, Table 5—*Review of EPA and Other Federal Regulations for Program Elements* shows that hazard review and emergency response planning provisions are the two most frequently addressed program elements; these were identified in seven of eight EPA regulations and in all of the other Federal programs reviewed.

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[18] Fourteen states have regulatory programs; multiple programs in the same state are noted in parentheses: CA (3), DE, GA, IL, IN (2), ME, MA (2), MI, MN, NJ, NY, OR, PA, and WV.

[19] See *Background Information Document: Review of Relevant Federal and State Regulations;* Docket ID #: EPA–HQ–OLEM–2018–0024.

Table 5 - Review of EPA and Other Federal Regulations for Program Elements

	Program Elements[a]								
	Safety Information	Hazard Review	Mechanical Integrity	Personnel Training	Incident Investigations	Compliance Audits	Secondary Containment	Emergency Response Plan	Coordinating Emergency Response Plan with State/Local Responders
EPA Programs/Regulations									
NPDES MSGP for Industrial Stormwater (2015)		✓	✓	✓			✓	✓	
RMP	✓	✓	✓	✓	✓	✓		✓	✓
SPCC		✓	✓	✓	✓		✓	✓	
Pesticide Management		✓	✓				✓		
Pesticide Worker Protection Standard	✓			✓				✓	
RCRA Generators		✓	✓	✓			✓	✓	✓
RCRA TSD		✓	✓	✓			✓	✓	✓
UST		✓	✓	✓			✓	✓	
EPCRA Planning								✓	✓
EPCRA Reporting	✓	✓							
Pulp, Paper, and Paper Board Effluent Guidelines			✓	✓	✓		✓		
Other Federal Regulations									
OSHA EAP								✓	
OSHA PSM	✓	✓	✓	✓	✓	✓		✓	
OSHA HAZWOPER		✓		✓			✓	✓	✓
OSHA HazCom	✓			✓					
MSHA	✓	✓		✓	✓		✓	✓	
PHMSA Hazardous Material	✓	✓	✓	✓	✓			✓	✓
SMCRA		✓	✓				✓	✓	

[a] A check mark ("✓") indicates that the regulatory program includes provisions addressing at least one sub-element of the program element.

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The analysis focused on those provisions within the existing EPA, and other Federal, regulatory framework that address to varying degrees, either

directly or indirectly, the identified program elements for CWA HS. The compliance auditing program element is addressed by one EPA regulatory program (RMP) and one other Federal regulation (the OSHA Process Safety Management standard). Mechanical integrity and personnel training are addressed by seven of eight EPA programs and by three of the other Federal programs reviewed. Secondary containment provisions are included in six of eight EPA regulations and three additional Federal programs reviewed. The remaining program elements (*i.e.,* safety information; incident investigations; and coordination with state and local responders) are addressed by approximately half of the Federal regulations reviewed.

The BID provides details on how each program element is addressed by both EPA regulations and other Federal programs. A summary of the EPA regulations, that serve as the basis for this proposal, is provided below.

a. Safety Information

Of the 11 EPA regulations reviewed, three programs include requirements to identify safety information for chemicals used or stored on-site—the Pesticide Worker Protection Standard, the RMP Rule and the EPCRA Reporting Rule.

The Pesticide Worker Protection Standard requires agricultural establishments to display safety data sheets for the pesticides that have been applied on the establishment and to keep the SDSs in records for two years.

The RMP Rule requires owners or operators to compile and maintain general safety information, including: An SDS, maximum intended inventory of equipment in which the regulated substances are stored or processed, and safe operation conditions. The RMP rule also requires owners to compile process safety information for regulated substances, such as toxicity information.

The EPCRA Reporting Rule, which establishes Tier I and Tier II reporting requirements, requires regulated facilities to submit identifying information, either as an SDS or a list of hazardous substances grouped by specific hazards, for hazardous substances. In addition, an inventory of the chemicals for the preceding calendar year must be submitted to the facility's State Emergency Response Commission (SERC), LEPC, and local fire department.

b. Hazard Review

Eight EPA regulations reviewed include requirements for facilities to conduct a hazard review or identify hazards:

- MSGP for Industrial Stormwater;
- RMP Rule;
- SPCC Rule;
- Pesticide Management Regulation;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- UST Rule; and
- EPCRA Reporting Rule.

The program element or sub-elements most commonly required by EPA programs are identification of engineering or administrative controls and/or a requirement for equipment/containers to be constructed in accordance with standards (six regulatory programs), requirement for compatibility of stored materials with tanks and equipment (five regulatory programs), and overfill prevention (six programs).

A general hazard review and identification of process hazards is required by four EPA regulatory programs—the 2015 MSGP for Industrial Stormwater, RMP Rule, SPCC Rule and RCRA TSD Regulations. Four programs, the MSGP for Industrial Stormwater, SPCC Rule, RCRA TSD Regulations and EPCRA Reporting Rule, require description of process technology or equipment for risk identification. The 2015 MSGP for Industrial Stormwater requires permitted facilities to assess potential hazards, implement control measures to minimize discharge based on identified hazards, and compile a list of the industrial activities exposed to stormwater. The RMP Rule requires facilities, depending on applicability, to either develop a hazard review or a process hazard analysis. The SPCC Rule requires that regulated facilities develop spill prevention, control and countermeasure plans that include a review of equipment and processes with a reasonable potential for failure.

Compatibility of stored materials with tanks and equipment is required by five EPA regulatory programs—Pesticides Management Regulation, the SPCC Rule, RCRA Generators Regulation, RCRA TSD Regulations, and the UST Rule. Most of the regulatory programs have a general requirement that tanks or equipment (or tank lining) must be compatible with the stored material. The Pesticides Management Regulation requires compatibility of containers and pesticides stored by referring to and requiring compliance with the DOT Hazardous Materials Packaging Regulations, and also requires that each stationary pesticide container and its appurtenances are resistant to extreme changes in temperature and constructed of materials that are adequately thick to not fail and that are resistant to corrosion, puncture, or cracking. This requirement is included because material incompatibility can result in corrosion, which implicitly requires pesticide storage facilities to incorporate hazard review in order to satisfy the requirement.

Six EPA regulatory programs have a broad requirement to identify engineering or administrative controls or that equipment or containers are to be constructed in accordance with industry codes or standards. Four specific types of engineering or administrative controls were reviewed: General engineering or administrative controls (*e.g.* temperature control), alarms, inventory management, and overfill prevention. The most commonly required engineering or administrative control is general controls. For example, the RCRA TSD Regulations at 40 CFR part 264 requires that containers holding hazardous waste remain closed during storage, except when it is necessary to add or remove waste, which is a control to prevent discharges. The RCRA Generators Regulation requires large quantity generators to use inventory logs to monitor hazardous waste. The UST Rule requires that owners or operators monitor hazardous substance transfer between tanks to avoid overfilling or spills. These forms of engineering or administrative controls may prevent discharges.

c. Mechanical Integrity

Eight regulations include requirements for facilities to maintain mechanical integrity of equipment critical for safe operation:

- MSGP for Industrial Stormwater;
- RMP Rule;
- SPCC Rule;
- Pesticide Management Regulation;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- UST Rule; and
- Pulp and Paper Effluent Guidelines.

Five of the reviewed EPA regulations (MSGP for Industrial Stormwater, RMP Rule, SPCC Rule, RCRA TSD Regulations, and Pulp and Paper Effluent Guidelines,) have a general mechanical integrity program element requirement, eight require inspections and testing, and seven require corrective action as a result of these inspections and tests. For example, the 2015 MSGP for Industrial Stormwater addresses a mechanical integrity program element and requires maintenance of non-structural control measures (*e.g.,* ensuring availability of spill response supplies, maintenance training). The SPCC Rule requires that facilities' SPCC

Plans include inspections and mechanical integrity.

These regulations vary considerably in scope, such as inspection frequency. For example, the Pulp and Paper Effluent Guidelines require best management practices that involve daily inspection of equipment for leaks for the pulp and paper sector while the 2015 MSGP for Industrial Stormwater requirements emphasize preventative maintenance on equipment that could result in contamination of stormwater. The RMP Rule requires facilities to inspect equipment at a frequency recommended by the manufacturer or industry standards and also to keep records of inspections.

d. Personnel Training

Of the 11 EPA regulations reviewed, eight include training requirements for employees or contractors that could serve to prevent CWA HS discharges:

- MSGP for Industrial Stormwater;
- RMP Rule;
- SPCC Rule;
- Pesticide Worker Protection Standard;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- UST Rule; and
- Pulp and Paper Effluent Guidelines.

These regulations frequently outline prescribed content that must be covered in the employee and/or contractor training. These training programs typically require training related to safe operation of equipment as well as emergency response procedures when a spill occurs. For example, the RCRA TSD and Generators Regulations require that facility personnel are trained in hazardous waste management procedures, including equipment monitoring, automatic waste feed cut-off systems, alarm systems, response to fires or explosions, response to ground-water contamination incidents, and emergency shutdown of operations. Similarly, the Pesticide Worker Protection Standard requires training for pesticide handlers to include safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup. The MSGP for Industrial Stormwater (2015) has a general requirement for permit holders to develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases.

Seven of the eight EPA regulations reviewed specifically for personnel training also include a requirement specific to refresher training. Most programs require that employees receive a review or refresher training at least annually. For example, the RMP Rule requires that refresher training is completed every three years.

e. Incident Investigations

Three EPA regulations include an incident investigation program element:

- Pulp and Paper Effluent Guidelines;
- SPCC Rule; and
- the RMP Rule.

These three EPA regulations that include an incident investigation program element require facilities to determine the cause of an incident. The SPCC Rule requires that facilities undertake an incident investigation and submit a report within 60 days if they discharged 1,000 U.S. gallons of oil or more in a single discharge or more than 42 U.S. gallons of oil in each of two discharges. This incident investigation must include an analysis of the cause of the discharge, corrective action taken, and additional preventive measures that would minimize the possibility of recurrence. The RMP Rule requires that incident investigations are initiated within 48 hours of an accidental release and include factors that contributed to the incident as well as recommendations resulting from the investigation. Finally, the Pulp and Paper Effluent Guidelines require that mills conduct an incident investigation after a spill and generate a report that identifies changes in operations and equipment, as necessary to prevent recurrence.

f. Compliance Audits

Of the 11 EPA regulations reviewed, the RMP rule is the only one that requires compliance audits. The RMP Rule requires owners or operators of stationary sources with regulated chemicals to evaluate their compliance with the RMP Rule every three years. If they find areas of deficiency, they must determine and document an appropriate response and correct the deficiency.

g. Secondary Containment

Seven EPA regulations were found to contain secondary containment provisions:

- MSGP for Industrial Stormwater;
- SPCC Rule;
- Pesticide Managment Regulation;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- UST Rule; and
- Pulp and Paper Effluent Guidelines.

These seven EPA regulations require secondary containment for equipment in order to prevent discharges to jurisdictional waters. Only one regulation, SPCC Rule, allows for active or passive secondary containment. Another four of the seven regulations—MSGP for Industrial Stormwater, SPCC Rule, RCRA TSD Regulations, and Pulp and Paper Effluent Guidelines—allow an alternative to containment to be used to prevent released material from reaching water. For example, MSGP for Industrial Stormwater (2015) allows for a ''similarly effective means designed to prevent the discharge of pollutants.''

EPA regulations reviewed vary in their standards for the required secondary containment. For example, RCRA TSD regulations require that secondary containment include at least one of the following: A liner (external to the tank); a vault; a double-walled tank; or an equivalent device as approved by the Regional Administrator. Comparatively, the SPCC Rule requires onshore facilities to use at least one of the following: Dikes, berms, or retaining walls sufficiently impervious to contain oil; curbing or drip pans; sumps and collection systems; culverting, gutters, or other drainage systems; weirs, booms, or other barriers; spill diversion ponds; retention ponds; or sorbent materials. The SPCC Rule requires offshore facilities to use curbing or drip pans or sumps and collection systems.

h. Emergency Response Plan

Eight EPA regulations include requirements for facilities to develop an emergency response plan or at least one of the sub-elements of that program element:

- MSGP for Industrial Stormwater;
- RMP Rule;
- SPCC Rule;
- Pesticide Worker Protection Standard;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- UST Rule; and
- EPCRA Planning Rule.

These eight EPA regulations require either the emergency response program element or at least one of its sub-elements. Of these, four generally require emergency response plans for discharges or accidental releases—RMP Rule, SPCC Rule, RCRA Generators Regulation, and RCRA TSD Regulations. Both RCRA regulations require that facilities develop contingency plans, which describes the actions that must be taken in response to unplanned release of hazardous waste. The SPCC Rule requires that in addition to spill prevention, facilities must include certain response plan elements to assist with a responding to an oil discharge. The RMP Rule requires facilities to develop an emergency response plan for accidental release.

Seven of the eight EPA regulations reviewed for the emergency response plan element require that facilities plan

immediate actions in the event of a discharge. For example, the MSGP for Industrial Stormwater regulation requires permitted facilities to develop plans for effective response to spills, including procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases and to execute such procedures as soon as possible. The RMP Plan requires the emergency response plan to include immediate procedures and measures for emergency response after an accident. Four of the reviewed EPA programs also include procedures to ensure personnel safety, such as evacuation. RCRA Generators and TSD Regulations both require evacuation plans for personnel, while the Pesticide Worker Protection Standard requires that employers provide emergency assistance for handlers that have experienced a potential pesticide exposure.

Notification procedures are also frequently addressed by the reviewed EPA regulatory programs. Seven of these EPA regulations have requirements to notify government or local communities about spills. For example, the UST Rule requires owners and operators to notify the implementing agency within 24 hours of a spill. Similarly, the EPCRA Planning Rule requires facilities to make an immediate notification to EPA, as soon as practical, and a written follow-up emergency notification. The RMP Rule requires that emergency response plans include procedures for informing the public and local emergency response agencies about accidental releases.

The remaining sub-elements identified for emergency response planning are addressed by half or less than half of the reviewed EPA regulations. Three programs require medical information, including the RMP Rule which requires documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures. Four programs require facilities to designate an emergency response coordinator, including the SPCC Rule which requires the plan to provide a phone number for the facility response coordinator. One program requires facilities to describe information about downstream receptors that may be affected by a discharge. For example, the RMP Rule requires that facilities describe environmental receptors within a calculated distance from the point of release.

i. Coordination of Emergency Response Program With State/Local Responders

Four EPA regulations require facilities to coordinate an emergency response program with state and/or local responders:

- RMP Rule;
- RCRA Generators Regulation;
- RCRA TSD Regulations;
- EPCRA Planning Rule.

Each EPA regulatory program requires facilities to make arrangements with local responders to prepare for an emergency. The RMP Rule mandates that facilities establish an arrangement with public emergency responders to not enter an emergency area except as arranged with the emergency contact indicated in the RMP. The two RCRA rules mandate a coordinated effort with local police, fire, hospital, and other emergency personnel, wherein potential responders understand which specific police/fire departments have primary authority and are familiar with the layout and activity of the facility and the properties of hazardous waste being handled. Unlike the RCRA regulations and RMP Rule, the EPCRA Planning Rule does not require formal arrangements to be made with state and local responders; EPCRA mandates the sharing of information with local emergency response personnel.

4. CWA HS Subject to EPA and Other Federal Regulatory Requirements

EPA further analyzed the existing Federal regulatory programs to determine whether the most frequently discharged CWA HS listed in Table 2 are subject to existing regulatory requirements (Table 6). However, it is important to note that the applicability criteria for some of the regulatory programs do not rely solely on chemical identity, but include other factors (*e.g.,* whether the substance is a waste, the industrial category of the facility); there may be additional regulatory requirements applicable to the identified CWA HS that this analysis has not identified. Thus, in cases where applicability could not be assessed with relative certainty based on chemical identity, the existing regulation was not included in Table 6. Furthermore, the list of CWA HS and/or the criteria for listing or distinguishing hazards between CWA HS is outside the scope of this action, as well as differentiating requirements based on such consideration.

TABLE 6—MOST FREQUENTLY DISCHARGED CWA HS AND RELEVANT FEDERAL REGULATIONS

CWA HS	Relevant regulations
PCBs (CAS No. 1336–36–3)	NPDES MSGP for Industrial Stormwater (Toxic Pollutant). SPCC Rule (commonly mixed with transformer oil). UST Rule. EPCRA Regulations. OSHA Regulations.[a] PHMSA Hazardous Material Regulations.
Sulfuric Acid (CAS No. 7664–93–9)	NPDES MSGP for Industrial Stormwater. RMP Rule. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Sodium Hydroxide (CAS No. 1310–73–2)	NPDES MSGP for Industrial Stormwater. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Ammonia (CAS No. 7664–41–7)	NPDES MSGP for Industrial Stormwater. RMP Rule. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.

TABLE 6—MOST FREQUENTLY DISCHARGED CWA HS AND RELEVANT FEDERAL REGULATIONS—Continued

CWA HS	Relevant regulations
Benzene (CAS No. 71–43–2)	NPDES MSGP for Industrial Stormwater (Priority/Toxic Pollutant). Pesticide Regulations.[b] UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Hydrochloric Acid (CAS No. 7647–01–0)	NPDES MSGP for Industrial Stormwater. RMP Rule. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Chlorine (CAS No. 7782–50–5)	NPDES MSGP for Industrial Stormwater. RMP Rule. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Sodium Hypochlorite (CAS No. 7681–52–9)	NPDES MSGP for Industrial Stormwater. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Toluene (CAS No. 108–88–3)	NPDES MSGP for Industrial Stormwater (Priority/Toxic Pollutant). UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Phosphoric Acid (CAS No. 7664–38–2)	NPDES MSGP for Industrial Stormwater. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Styrene (CAS No. 100–42–5)	NPDES MSGP for Industrial Stormwater. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Nitric Acid (CAS No. 7697–37–2)	NPDES MSGP for Industrial Stormwater. RMP Rule. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.
Potassium Hydroxide (CAS No. 1310–58–3)	NPDES MSGP for Industrial Stormwater. UST Rule. EPCRA Regulations. OSHA Regulations. PHMSA Hazardous Material Regulations.

[a] All instances of ''OSHA Regulations'' indicate that the CWA HS is covered under either EAPs (29 CFR 1910.38), PSM (29 CFR 1910.119), HAZWOPER (29 CFR 1910.120), or HCS (29 CFR 1910.1200).
[b] ''Pesticide Regulations'' indicates that the substance has a commercial use of pesticides.

Table 6 summarizes relevant regulations for the most commonly discharged CWA HS. However, there are challenges to identifying applicability for certain programs, specifically when regulatory program applicability relies on criteria other than chemical identity. For example, SMCRA regulations and MSHA regulations apply primarily based on industrial activity (*i.e.,* mining). These requirements were not cited in Table 6, although they may apply to some CWA HS present in those industrial activities. Also, not cited in this table are Standards for Generators of Hazardous Waste; or Standards for Treatment, Storage, and Disposal of Hazardous Waste. Their applicability depends on whether a waste is present, and whether that waste meets the regulatory definition of hazardous waste. While not included in Table 6, these regulations apply to CWA HS in certain situations (*e.g.,* when CWA HS are hazardous waste), so EPA considered these regulatory requirements in the analysis of existing regulations.

For other regulatory programs, applicability may depend on other criteria in addition to chemical identity. Requirements for USTs apply to CWA HS when present in UST systems greater than 110 gallons in capacity. PHMSA Hazardous Materials Regulations specify integrity requirements for packages used to ship hazardous materials, including CWA HS. Therefore, when CWA HS are stored in packages intended for shipment, the packages must meet certain design criteria that may also serve to prevent discharges of CWA HS. These regulatory programs are cited in Table 6, and the complexities of assessing their

prevention advantages for CWA HS are discussed in the BID.

Based on the review of NRC reporting data, in conjunction with existing prevention requirements of the regulations included in the analysis, the Agency determined that the majority of identified CWA HS reported discharges to water from non-transportation-related sources have been discharges of chemicals currently subject to discharge or accident prevention regulatory requirements.

C. Conclusions

In the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, multiple statutory and regulatory requirements have been established under different Federal authorities that generally serve to, directly and indirectly, prevent CWA HS discharges. Some states have also established their own discharge prevention provisions relevant to CWA HS. Based on EPA's analysis of the frequency and impacts of reported CWA HS discharges and the existing framework of EPA regulatory programs and implementing regulations, EPA is not proposing additional regulatory requirements at this time.

EPA requests comments on this proposed approach of establishing no new regulatory requirements under the authority of CWA section 311(j)(1)(C). EPA specifically requests comments on the analysis of existing EPA regulations and their applicability to CWA HS for purposes of spill prevention. EPA also requests comments on the analysis of other Federal regulations that supplement the EPA regulatory program analysis and whether EPA should consider expanding the basis of the proposal to these Federal regulations.

Furthermore, while the analysis of state regulations and industry standards included in the BID do not serve as a basis for this proposal, the Agency requests comments on whether the state regulations and industry standards considered have program elements reflective of those identified as key to prevention. The Agency also requests comments on whether there are other Federal regulations not considered in the analysis but that may have applicable discharge prevention requirements, as well as whether any of the identified program elements should or should not have been considered. Likewise, the Agency requests comments on whether there may be regulatory gaps in prevention requirements that are not reflected in the analysis. We also request information that may be used to revise or supplement our analysis regarding any facilities, which are using, storing, producing, and/or otherwise handling CWA HS. Please provide any supporting information, including supporting data, with comments.

IV. Alternative Regulatory Options Considered

A. Prevention Program

The Agency considered proposing a CWA HS discharge prevention program that would include provisions to address all nine prevention program elements listed in Table 3. Under this option, EPA considered requiring regulated facility owners/operators to develop a written plan with site-specific prevention measures and practices. Regulated facilities would be expected to implement this plan, to maintain and update it as needed, and to make it available for inspection. Under this alternative option, the facilities could take credit for and/or incorporate existing discharge prevention compliance strategies when addressing CWA HS discharge prevention requirements under this program.

A prevention program regulatory option would be designed to reflect all discharge prevention, control and mitigation program elements discussed in this action to prevent and mitigate CWA HS discharges to jurisdictional waters. A prevention program regulatory approach would also include additional administrative program elements, such as requirements to:

- Develop a plan in accordance with good engineering practices;
- Update the plan as operations or equipment changes; and
- Require records documenting compliance with the rule.

Following an analysis of the frequency of CWA HS discharges and the causes and impacts of such discharges, the Agency chose not to propose this approach. Over the 10-year period analyzed (2007–2016), there were a total of 2,491 CWA HS discharges from non-transportation-related sources with 117 of those discharges with reported impacts. This data suggests that the existing framework of regulatory requirements serves to prevent CWA HS discharges.

EPA requests comments on whether to consider this alternative approach and develop a CWA HS prevention program. Comments should include supporting information and data. EPA requests comments on the specific provisions recommended, costs and advantages of such an approach, ways to minimize any regulatory redundancies, and any other information that would support the promulgation of new CWA HS discharge prevention provisions.

B. Targeted Prevention Requirements

EPA also considered proposing a limited set of requirements designed to prevent CWA HS discharges. This regulatory option could establish targeted requirements under one or more of the nine program elements listed in Table 3. Targeted requirements under several of the program elements could be effective in helping to prevent CWA HS discharges.

To evaluate which requirement(s) might be appropriate, EPA reviewed cause data in the NRC database for past CWA HS discharges, and identified four key program elements that may have addressed the CWA HS discharge causes. A summary of this review is shown in Table 7. The first category of causes, Unknown/Illegal Dumping/Other, consisted of reports for which there was either too little information provided to develop a prevention strategy, or for which additional regulatory requirements would be unlikely to prevent the discharges because the HS was disposed of illegally. For example, there are statutory and regulatory prohibitions in place to prevent CWA HS dumping, and these prohibitions are enforced (see CWA section 311(b)(3) and 40 CFR 117.1(a)). There is no reason to believe that a redundant prohibition on such dumping would alleviate the problem of those who already disregard existing regulations.

EPA identified program elements that could be effective in preventing CWA HS discharges resulting from the other four categories of reported causes. These program elements were considered, both individually and in various combinations, as an alternative regulatory option.

TABLE 7—CAUSE DATA FOR IDENTIFIED CWA HS DISCHARGES

Reported cause category [a]	CWA HS discharges	CWA HS discharges with reported impacts	Program element that could potentially prevent this type of discharge
Unknown/Illegal Dumping/Other	1,357	74	*Unknown—not enough information.* *None—illegal dumping violates current regulations.*
Equipment Failure	563	17	Hazard Review. Mechanical Integrity. Secondary Containment.
Natural Phenomenon	321	4	Hazard Review.
Operator Error	204	10	Hazard Review. Personnel Training. Secondary Containment.
Fire, explosion	46	12	Hazard Review. Mechanical Integrity. Personnel Training.
Total	2,491	117	

[a] EPA used NRC incident descriptions to categorize the incident cause.

1. Hazard Review

Approximately 46 percent of the identified CWA HS discharges from 2007 to 2016 were reportedly due to equipment failure, a natural phenomenon, operator error, or fire/explosion. These causes were all identified as potentially addressed by a hazard review. A requirement to identify potential hazards, including, for example, process hazards, engineering and administrative controls, and human factors, could help prevent CWA HS discharges. However, establishing new requirements for hazard reviews may provide only incremental advantages, as the hazard review program element was identified in seven of the eight EPA regulatory programs and in all four of the other Federal regulations reviewed.

2. Mechanical Integrity

Nearly 23 percent of the identified 2,491 CWA HS discharges from 2007 to 2016 were reportedly due to equipment failure, which could be addressed in part through preventive maintenance. However, EPA believes additional regulatory requirements would provide minimal prevention advantages, since seven of the eight EPA programs and three of the four other Federal programs analyzed in the existing requirements review already contain some mechanical integrity/preventive maintenance provisions.

3. Personnel Training

Approximately 10 percent of the identified 2,491 CWA HS discharges were due to either operator error or fire/explosion, which were both identified as causes that could be reduced by personnel training. Training employees on the proper operation of equipment and discharge prevention measures/procedures could serve to prevent CWA HS discharges due to operator error. However, the value of a personnel training program would depend, in part, on whether proper operating, maintenance, prevention, or response procedures have been developed to train personnel. Personnel training provisions are currently required in seven of the eight EPA programs and three of the four other Federal programs reviewed.

4. Secondary Containment

More than 30 percent of the identified 2,491 CWA discharges were due to causes (*e.g.,* equipment failure, operator failure) where secondary containment could have played a role in preventing the discharge to jurisdictional waters. A requirement to construct and maintain appropriate secondary containment (*e.g.,* sized to prevent a CWA HS discharge from impacting jurisdictional waters could be the most generally applicable program element). However, the advantages of adding secondary containment provisions may only be incremental, as at least some type of secondary containment provision is included in six of the eight EPA regulatory programs and three of the four other Federal regulatory programs reviewed.

5. Conclusion

Provisions for any of the four program elements described above, as well as others identified in Table 3, could be included in a targeted regulatory approach. However, these provisions were frequently identified in both the EPA and other Federal regulatory programs reviewed. EPA believes there would be only minimal incremental value in requiring these provisions in a new regulation. Additionally, the benefits of any of the targeted provisions described above may not justify the associated costs.[20] For more information on the potential costs and benefits associated with regulatory options considered for this action, see the economic analysis, ''Regulatory Impact Analysis; Clean Water Act Hazardous Substances Discharge Prevention,'' available in the docket and the summary of the economic analysis in section V.A. of this action.

EPA requests comments on whether it should adopt a narrowly targeted regulatory approach to prevent CWA HS discharges. Commenters who support targeted prevention requirements should provide information and data that identify which program elements to include and why, the costs and advantages of such an approach, ways to minimize any regulatory redundancies, and any other information that would support the promulgation of new, targeted prevention provisions. Furthermore, EPA requests comments on whether a targeted regulatory approach should allow a facility to substitute alternative prevention measures for specific targeted requirements (*e.g.,* a situation where secondary containment is not practicable, a facility could substitute a separate prevention measure that achieves the same effect).

[20] Executive Order 12866 (58 FR 51735, October 4, 1993) section 1(a) states that in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

In summary, the proposal identifies three options the Agency may choose to finalize:

- Establishes no new requirements under the authority of CWA 311(j)(1)(C);
- Requires prevention plans to address the nine program elements discussed; or
- Requires actions under targeted program elements.

EPA requests comments on these three approaches, as well as on other alternatives not specifically identified in this notice. For example, EPA could consider an approach that requires an owner or operator to develop a plan to prevent CWA HS discharges but allows flexibility for the owner or operator to determine what provisions should be incorporated within the plan. The Agency could also consider establishing a prevention program under CWA section 311(j)(1)(C) authority that incorporates existing discharge prevention provisions already established under other statutory authorities. EPA requests comments on alternative approaches.

If the Agency were to finalize an alternative option that establishes a regulatory program, it would apply to facilities producing, storing, processing, using, transferring or otherwise handling CWA HS. EPA would need to establish applicability criteria for the program, and is requesting comments on appropriate applicability criteria or thresholds for such alternatives.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to OMB for review, because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Any changes made in response to the OMB recommendations have been documented in the docket.

EPA prepared an economic analysis of the potential costs and benefits associated with regulatory options considered for this action. This analysis, ''*Regulatory Impact Analysis; Clean Water Act Hazardous Substances Discharge Prevention,*'' is available in the docket.

1. Summary of the Economic Analysis

A regulatory impact analysis (RIA) is included in the record. The RIA considers three alternatives: The proposed no-action approach, a prevention program including provisions under nine program elements, and a targeted approach including four of the program elements. The unit costs of the program elements are derived from similar requirements in other EPA regulatory programs. The number of affected facilities is estimated from the number of facilities subject to EPCRA.

EPA does not attempt to determine the number of potentially regulated facilities currently undertaking various prevention activities in the baseline. Thus, EPA does not estimate total costs per facility, nor does it estimate total program costs across facilities. EPA does calculate the annualized net present value of a wide range of unit compliance costs for each program element over a 10-year analysis period, using 3 percent and 7 percent discount rates, as presented in Tables 8 and 9. Avoided damages, estimated from historical CWA HS discharges, represent the monetized damages. Based on historical incidents reported to the NRC, EPA estimated the total existing level of monetized damages over the 10-year period from 2007 to 2016 to be $33.1 million in 2016 dollars.

TABLE 8—SUMMARY OF UNIT COSTS

Type of cost	Unit Costs: Total annualized unit costs (2016 $)					
	Option 1: Proposed action		Option 2: Prevention program		Option 3: Targeted prevention requirements	
	3%	7%	3%	7%	3%	7%
Safety Information (Recurring)	$0	$0	$14–$25,100	$15–$26,700	$0	$0
Hazard Review (Recurring)	0	0	19–15,900	20–17,300	19–15,900	20–17,300
Mechanical Integrity (Initial and Recurring)	0	0	348–98,800	349–99,400	348–98,800	349–99,400
Personnel Training (Recurring)	0	0	42–69,100	44–73,400	42–69,100	44–73,400
Incident Investigations (Recurring)	0	0	40–14,600	42–15,300	0	0
Compliance Audits (Recurring)	0	0	46–10,800	45–10,600	0	0
Secondary Containment (Initial)	0	0	3,000–43,100	3,570–51,200	3,000–43,100	3,570–51,200
Emergency Response Plan, ERP) (Initial)	0	0	770	914	0	0
Coordination of ERP with State and Local Responders (Initial)	0	0	(*)	(*)	0	0

* Included in cost of ERP.

TABLE 9—SUMMARY OF MONETIZED DAMAGES

Impact category	Monetized damages		
	Impact	Average annual cases	Average annual damages (millions, 2016 $)
Human Health	Injuries (w/o hospitalizations)	1.2	$0.001
	Hospitalizations	4.1	0.2
	Fatalities	0.3	3.1
Other	Evacuations	211.9	0.04
	Sheltering-in-Place	n.e.	n.e.
	Waterway Closures	n.e.	n.e.
	Water Supply Contamination	n.e.	n.e.
	Environmental Impacts	n.e.	n.e.
	Lost Productivity	n.e.	n.e.

TABLE 9—SUMMARY OF MONETIZED DAMAGES—Continued

Impact category	Monetized damages		
	Impact	Average annual cases	Average annual damages (millions, 2016 $)
	Emergency Response Costs	n.e.	n.e.
	Transaction Costs	n.e.	n.e.
	Property Value Impacts *	n.e.	n.e.
Total		217.5	3.3

n.e. = not estimated.
* Property value impacts overlap with human health and other impact categories.

EPA believes the benefits would not justify the costs in any alternative other than the proposed alternative.[21] The benefits of the provisions are to reduce the likelihood and severity of CWA hazardous substance discharges and their associated impacts on human health and the environment. Table 9 gives estimates of baseline damages from hazardous substance discharges. Annualized damages are estimated as $3.3 million (2016$) and represent human health impacts and evacuations. Nonmonetized baseline damages include impacts such as shelter-in-place events, waterway closures, and lost productivity. The estimated annualized unit costs of proposed provisions vary widely, from less than $100 to tens of thousands of dollars (Table 8). However, existing regulatory programs already require many of the prevention and mitigation actions proposed by Options 2 and 3. Even a robust regulatory program where none existed before would not be expected to completely eliminate all risk.

Since the proposed alternative establishes no new regulatory requirements, it neither imposes incremental costs nor provides incremental environmental protection benefits.

2. Estimating Universe of Potentially Regulated Facilities

a. Identifying Facilities With CWA HS

To estimate the universe of facilities that would potentially be subject to a rule preventing CWA HS discharges, EPA first estimated the number of facilities with CWA HS onsite. Information in EPCRA Tier II reports was used to identify facilities with CWA HS onsite, because these reports contain information about many chemicals, of which CWA HS are a subset. EPA reviewed Tier II reports submitted in 16 states and extrapolated the data nationally based on NAICS codes and United States Census data. EPA estimates there are approximately 108,000 potentially affected facilities nationally. For additional details on this methodology, alternatives considered, and the results, please see Section 3 and Appendix B of the RIA available in the docket for this action.[22]

b. Proximity to Jurisdictional Waters

EPA did not identify an appropriate method to quantify those facilities that would not have the potential to discharge to jurisdictional waters for this action. To estimate the universe of potentially subject facilities, EPA took a conservative approach and assumed that all CWA HS facilities have the potential to discharge CWA HS to jurisdictional waters.

c. Data Limitations

The estimate of potentially regulated facilities has several uncertainties. First, due to the wide range of trade names used for many chemicals and chemical mixtures, it was unclear whether approximately 20 percent of the facilities in the Tier II reports reviewed had a CWA HS onsite. Second, Tier II reports are required for materials present at any one time in an amount greater than or equal to 10,000 pounds, or lower established thresholds for chemicals defined as Extremely Hazardous Substances in 40 CFR part 355, Appendix A. If a proposed regulation were to establish applicability criteria with a higher or lower applicability threshold than those established in 40 CFR part 355, Appendix A, the number of potentially regulated facilities would be impacted. Finally, the extrapolation assumes that the fraction of facilities in each NAICS sector that have CWA HS onsite is the same across all states. As discussed in Section 3.3 of the RIA, alternative extrapolation methodologies were used with reasonably similar results, which provides some confidence that the extrapolation approach is reasonable (*i.e.,* nationwide estimate of approximately 101,000 facilities based on Tier II data and U.S. population *vs.* approximately 108,000 facilities based on NAICS codes and Census data).

3. Conclusion

EPA seeks comments on the method used to estimate the potential affected universe, including any additional data or information sources that could be used to reduce the uncertainty of the estimate. For any additional information sources, commenters are encouraged to provide information, including where it can be publicly obtained, as well as how the data could improve EPA's current estimate. EPA intends to further refine the estimate of the facilities that could be potentially subject to CWA HS regulatory requirements as additional information is received. EPA is requesting comments on its approach to the economic analysis, including additional sources of information or data to refine the analysis.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory or deregulatory action, because this action does not propose any regulatory requirements.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this action does not propose any regulatory requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this

[21] Under Executive Order 12866 (58 FR 51735, October 4, 1993), section 1(b)(6), each agency shall assess both the costs and benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

[22] See *Regulatory Impact Analysis; Clean Water Act Hazardous Substances Discharge Prevention;* Docket ID #: EPA–HQ–OLEM–2018–0024.

determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule.

This action proposes no regulatory requirements. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175, because this action proposes no regulatory requirements. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in Section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action proposes no regulatory requirements.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard and imposes no regulatory requirements.

Dated: June 15, 2018.

E. Scott Pruitt,

Administrator.

[FR Doc. 2018–13470 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R09–RCRA–2018–0267; FRL–9979–60—Region 9]

Hawaii: Proposed Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Hawaii has applied to the Environmental Protection Agency (EPA) for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA). These changes correspond to certain federal rules promulgated between May 26, 1998 and June 30, 2016 (also known as RCRA Checklist 167 and Clusters IX through XXIV) plus several changes initiated by the State. EPA has reviewed Hawaii's application with regards to federal requirements and is proposing to authorize the changes. The EPA seeks public comment prior to taking final action.

DATES: Comments on this proposed rule must be received by July 25, 2018.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R09–RCRA–2018–0267 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

You may also view Hawaii's application from 8 a.m. to 4 p.m. Monday to Friday, excluding State holidays at Hawaii State Department of Health OPPPD, 1250 Punchbowl Street, Room 120, Honolulu, Hawaii 96813, phone number: 808–586–4188.

FOR FURTHER INFORMATION CONTACT: Laurie Amaro, U.S. Environmental Protection Agency, Region 9, Land Division, 75 Hawthorne Street (LND–1–1), San Francisco, CA 94105, phone number: 415–972–3364, email: *amaro.laurie@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What decisions has EPA made in this rule?

On December 13, 2017, Hawaii submitted a final complete program revision application seeking authorization of changes to its hazardous waste program corresponding to certain federal rules promulgated between May 26, 1998 and June 30,

2016 (also known as RCRA Checklist 167 and Clusters IX through XXIV) plus several changes initiated by the State. EPA concludes that Hawaii's application to revise its authorized program meets all statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA proposes to grant Hawaii final authorization to operate as part of its hazardous waste program the changes listed below in Section F of this document, as further described in the authorization application.

Hawaii has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA).

C. What is the effect of today's authorization decision?

The effect of this decision is that the changes described in Hawaii's authorization application will become part of the authorized state hazardous waste program, and therefore will be federally enforceable. Hawaii will continue to have primary enforcement authority and responsibility for its state hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements, including authorized state program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the state has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Hawaii is being authorized by today's action are already effective, and are not changed by today's action.

D. What happens if EPA receives comments that oppose this proposed action?

EPA will consider all comments received during the comment period and address all such comments in a final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so during the comment period for this proposed rule.

E. For what has Hawaii previously been authorized?

Hawaii initially received final authorization to implement its base hazardous waste management program including federal program revisions through May 25, 1998 (Cluster VIII partial) on November 13, 2001 (66 FR 55115). Since initial authorization Hawaii has not applied for or received authorization for revisions to its hazardous waste program.

F. What changes is EPA proposing with today's action?

Hawaii has applied to EPA for authorization of changes to its hazardous waste program that correspond to certain federal rules promulgated between May 25, 1998 and July 1, 2016 (also known RCRA Cluster VIII through XXIV) and for authorization of state-initiated changes that are equivalent to or more stringent than the federal program.

EPA proposes to determine, subject to public review and comment, that Hawaii's hazardous waste program revisions as described in the State's authorization revision application dated November 22, 2017 are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all the requirements necessary to qualify for final authorization. Regulatory revisions that are less stringent than the Federal program requirements and those regulatory revisions that are broader in scope than the Federal program requirements are not authorized. Accordingly, EPA proposes to grant Hawaii final authorization for the program changes described below.

Hawaii has revised the format of its hazardous waste regulations from verbatim adoption to incorporation by reference of the Federal hazardous waste management regulations into their counterpart Hawaii Administrative Rules (HAR). HAR chapter 11–280 has been repealed without replacement. The requirements for public availability of information (RCRA § 3006(f)) previously found in 11–280 are met by HAR chapters 2–71 and 11–1, HRS chapter 92F and sections 342J–14 and 342J–14.5, and provisions adopted from Federal rules (40 CFR 260.2) in HAR chapter 11–260.1.

The repeal of the verbatim adoption of the Federal program in HAR Title 11 chapters 260, 261, 262, 263, 264, 265, 266, 268, 270, 271, 273, 279, and 280 is replaced by incorporation by reference (''IBR'') into HAR Title 11 chapters 260.1, 261.1, 262.1, 263.1, 264.1, 265.1, 266.1, 268.1, 270.1, 271.1, 273.1, and 279.1 and are effective July 17, 2017. The applicable Federal rules and analogous State rules are identified in the table below.

Federal hazardous waste requirements	Analogous State authority
40 CFR parts 260–266, 268, 270, 273, 279, effective by July 1, 2016	Hawaii Administrative Rules (HAR) 11–260.1–266.1, 11–268.1, 11–270.1, 11–273.1, 11–279.1, effective July 17, 2017.
40 CFR Part 124 subparts A and B	HAR 11–271.1, effective July 17, 2017.

G. Where are the revised State rules different from the Federal rules?

Under RCRA § 3009, the EPA may not authorize state rules that are less stringent than the Federal program. Any state rules that are less stringent do not supplant the federal regulations. State rules that are broader in scope than the Federal program requirements are allowed but do not become part of the enforceable federal program. State rules that are equivalent to or more stringent than the federal program may be authorized, in which case they are enforceable by the EPA.

This section does not discuss the program differences previously published in Hawaii's base program authorization in 2001, at 66 FR 55115 (November 1, 2001). Areas identified in the base program authorization as more stringent or broader in scope than the federal program have been carried forward into the new regulations as amendments or additions to the incorporation by reference of the federal regulations. This section discusses new State requirements that are more stringent, or new requirements that are broader in scope and cannot be authorized.

1. More Stringent

States may seek authorization for state requirements that are more stringent than federal requirements. The EPA has the authority to authorize and enforce those parts of a state's program the EPA finds to be more stringent than the

federal program. This section does not discuss each more stringent finding made by the EPA, but rather rules of particular interest that were not previously described in 2001, available at 66 FR 55115, November 1, 2001. Persons should consult the docket for this rule, including Hawaii's revised Program Description, dated May 1, 2018 for a complete list of rules determined to be more stringent than federal rules.

i. More stringent regulation of specific wastes

a. Solvent-Contaminated Wipes: Hawaii is adopting the conditional exclusions for solvent-contaminated wipes addressed by Revision Checklist 229, but is adding one additional condition to the incorporated version of 40 CFR 261.4(a)(26) and 261.4(b)(18): Containers in which solvent-contaminated wipes eligible for the exclusion are being accumulated must be labeled with the accumulation start date.

b. Spent lead-acid batteries: Hawaii regulates persons who generate, transport, collect, or store spent-lead acid batteries sent for reclamation (other than through regeneration) as handlers/transporters of universal waste under chapter 11–273.1. This is more stringent than the federal program, which exempts these groups from many regulations under 40 CFR 266.80.

ii. Notification before cancellation of certain financial assurance instruments. Hawaii requires hazardous waste treatment, storage, and disposal facilities, and reclamation and intermediate facilities managing hazardous secondary materials, to notify both the State Director and the Regional Administrator before cancellation of certain financial assurance instruments. The federal regulations require only one authority to be notified, so the requirement to notify the Regional Administrator in addition to the State Director is more stringent than the federal regulation. This applies to surety bonds, letters of credit, corporate guarantees, liability endorsements, certificates of liability insurance, and standby letters of credit (Incorporated version of 40 CFR 261.151(b), (c), (g), (h), (i), (j), (k), 264.151(b), (c), (d), (h), (i), (j), (k), and (l)).

iii. Used oil processor facility standards: The State does not allow for exceptions to the requirement that used oil processors have emergency equipment listed in 40 CFR 279.52(a)(2). The State also does not allow for the possibility that aisle space required in 279.52(a)(5) is not necessary.

iv. Notification in case of emergency. Hawaii requires notification of emergencies to the State Hazard Evaluation and Emergency Response (HEER) office designated on-scene coordinator in addition to the National Response Center (NRC) for: Facilities handling secondary hazardous materials (HSM), generators of hazardous waste, transporters of hazardous waste and used oil, treatment, storage, and disposal facilities and used oil processors.

v. Recordkeeping requirements. The State requires the following additional recordkeeping requirements:

a. Generator container storage area inspection log: Generators must keep a log of the weekly container storage area inspections.

b. Universal waste transporters: Universal waste transporters must maintain the same type of records that Large Quantity Handlers of Universal Waste and Destination Facilities must maintain. Records must be maintained for three years.

c. Used oil generators: Used oil generators must keep records of shipments, similar to the records required for used oil transporters under the federal program. These records must be maintained for three years.

d. Used oil processors: Used oil processors must keep records of the equipment testing and maintenance required by 40 CFR 279.52(a)(3) (in the incorporated version of 279.57(a)(2)).

vi. Permits: The State limits the duration of Remedial Action Plans to five years instead of ten (40 CFR 270.195).

vii. No standard permit option: The State has not adopted federal regulations allowing standardized permits.

viii. Used oil management.

a. Used oil testing: The State requires that used oil transporters and processors make a hazardous waste determination for used oil sent for disposal. The State regulations allow used oil burners and marketers to either test used oil for halogens or obtain results of tests performed by the processor.

b. Annual reporting for used oil processors: The State requires used oil processors to submit an annual report of used oil activities by July 31. The content of the report is similar to the biennial report required in the federal program and replaces the used oil biennial reporting requirement (40 CFR 279.57(b)).

ix. Alternative groundwater monitoring plans. The State has added a requirement that any interim status facility opting for an alternative groundwater monitoring plan under the incorporated version of 40 CFR 265.90(d) submit a copy of the plan to the department, in addition to maintaining the plan on-site at the facility.

x. Notification of newly regulated hazardous waste activity. State regulations (HRS 342J–6.5) require generators, transporters, and owners or operators of treatment, storage, or disposal facilities newly regulated due to a change in the definition of hazardous waste (HAR chapter 11–261.1) to submit a notification within 45 days of the regulatory revision (rather than the federal requirement of 90 days) (40 CFR 270.1(b)).

xi. Academic laboratory generator standards: The State is not adopting the alternative requirements for hazardous waste determination and accumulation of unwanted materials at academic laboratories, (73 FR 72912, December 1, 2008 and 75 FR 79304, December 20, 2010).

xii. Used oil storage requirements: The State has added language to the incorporated version of 40 CFR 279.22, 279.45, 279.54, 279.64, to clarify that containers and aboveground tanks storing used oil must be kept closed.

2. Areas Where the State Program Is Broader in Scope

i. Coal combustion residuals: The State is not adopting the Federal final rule that added a list of coal combustion residuals to 40 CFR 261.4(b)(4)(ii) to the ash and other waste types from coal combustion that were already included in an exemption from the definition of hazardous waste, if these residuals are co-disposed with the waste types originally listed (80 FR 21302–21501, October 19, 2015). Hawaii does not exclude these waste types from the definition of solid waste.

ii. Cathode Ray Tubes and Carbon Dioxide Streams in Geological Sequestration Activities: Hawaii is not adopting the Federal final rules that introduced and/or revised conditional exclusions for (1) Cathode Ray Tubes (CRTs) from the definition of solid waste (40 CFR 261.4(a)(22)) and (2) carbon dioxide (CO_2) streams in geological sequestration activities from the definition of hazardous waste (at 40 CFR 261.4(h)). Hawaii program is broader in scope so long as all the conditions of the Federal exclusion are met.

3. Universal Waste: Electronic Item Added

The State has added a category of universal waste to HAR chapter 11–273.1 called ''electronic items'' and defined waste management and labeling/marking requirements for this type of universal waste. The State determined, based on extensive

research, that most waste electronic items are toxicity characteristic hazardous wastes due to the presence and concentration of one or more metals (*e.g.* lead, cadmium) and may also contain other dangerous constituents, such as a brominated (flame retardant) plastics. The State also determined that electronic items (as defined in HAR chapters 11–260.1 and 11–273.1) as a category meet the criteria of 40 CFR 273.81. EPA allows authorized States to create regulations for State-only universal wastes provided that these criteria are met for the waste or waste category, including the key requirements that universal waste management is sufficiently protective of human health and the environment and that regulation as universal waste increases the likelihood of similar unregulated wastes (such as CESQG or household wastes) being diverted from non-hazardous to hazardous waste management systems.

4. Procedural Rules

i. Contested case hearings and declaratory orders: The State's previous regulations governing contested case hearings (HAR chapter 11–271 subchapter B, based on 40 CFR part 22) and declaratory rulings (HAR chapter 11–271 subchapter C) for the hazardous waste program have been repealed. The State Department of Health has similar department-wide procedures for case hearings and declaratory orders that now apply (HAR chapter 11–1). The State is not adopting an equivalent to 40 CFR 124.19 and instead adds procedures for requesting a contested case hearing in the incorporated version of 40 CFR 124.15 in HAR chapter 11–271.1.

ii. Public availability of information: The State's previous regulations regarding public availability of information and treatment of confidential business information (HAR chapter 11–280) have been repealed. Requests for public information will be handled under HRS 342J–14 and 342J–14.5 and applicable provisions of HRS chapter 92F and HAR chapter 2–71, which are referenced in the incorporated version of 40 CFR 260.2. EPA determines that Hawaii's requirements for public availability of information and treatment of confidential business information are substantially similar to EPA's federal regulations.

Other than the differences discussed above, Hawaii incorporates by reference the remaining federal rules listed in Section F; therefore, there are no significant differences between the remaining federal rules and the revised state rules being authorized today.

H. Who handles permits after the authorization takes effect?

Hawaii will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. Section 3006(g)(1) of RCRA, 42 U.S.C. 6926(g)(1), gives EPA the authority to issue or deny permits or parts of permits for requirements for which the State is not authorized. Therefore, whenever EPA adopts standards under HSWA for activities or wastes not currently covered by the authorized program, EPA may process RCRA permits in Hawaii for the new or revised HSWA standards until Hawaii has received final authorization for such new or revised HSWA standards.

I. What is codification and is EPA codifying Hawaii's hazardous waste program as authorized in this rule?

Codification is the process of placing the state's statutes and regulations that comprise the state's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized state rules in 40 CFR part 272. EPA is not codifying the authorization of Hawaii's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart M for this authorization of Hawaii's program changes until a later date.

J. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action (RCRA State authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this proposed authorization of Hawaii's revised hazardous waste program under RCRA are exempted under Executive Order 12866. This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization, as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629,

February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing state rules which are at least equivalent to, and no less stringent than existing federal requirements, and impose no additional requirements beyond those imposed by state law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898. The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action nevertheless will be effective 60 days after the final approval is published in the **Federal Register**.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Indian—lands, Hazardous waste transportation, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: June 8, 2018.

Deborah Jordan,

Acting Regional Administrator, Region 9.

[FR Doc. 2018–13573 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS–1720–NC]

RIN 0938–AT64

Medicare Program; Request for Information Regarding the Physician Self-Referral Law

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Request for information.

SUMMARY: This request for information seeks input from the public on how to address any undue regulatory impact and burden of the physician self-referral law.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 24, 2018.

ADDRESSES: In commenting, refer to file code CMS–1720–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1720–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1720–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lisa O. Wilson, (410) 786–8852.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Introduction

The Department of Health and Human Services (HHS) is working to transform the healthcare system into one that pays for value. Care coordination is a key aspect of systems that deliver value. Removing unnecessary government obstacles to care coordination is a key priority for HHS. To help accelerate the transformation to a value-based system that includes care coordination, HHS has launched a Regulatory Sprint to Coordinated Care, led by the Deputy Secretary. This Regulatory Sprint is focused on identifying regulatory requirements or prohibitions that may act as barriers to coordinated care, assessing whether those regulatory provisions are unnecessary obstacles to coordinated care, and issuing guidance or revising regulations to address such obstacles and, as appropriate, encouraging and incentivizing coordinated care.

The Centers for Medicare & Medicaid Services (CMS) has made facilitating coordinated care a top priority and seeks to identify ways in which its regulations may impose undue burdens on the healthcare industry and serve as obstacles to coordinated care and its efforts to deliver better value and care for patients. Through internal discussion and input from external stakeholders, CMS has identified some aspects of the physician self-referral law as a potential barrier to coordinated care. Addressing unnecessary obstacles to coordinated care, real or perceived, caused by the physician self-referral law is one of CMS's goals in this Regulatory Sprint. To inform our efforts to assess and address the impact and burden of the physician self-referral law, including whether and, if so, how it may prevent or inhibit care coordination, we welcome public comment on the physician self-referral law and, in particular, comment on the questions presented in this Request for Information (RFI).

II. Background

When enacted in 1989, the physician self-referral law (section 1877 of the Social Security Act), also known as the

''Stark Law,'' addressed the concern that health care decision making can be unduly influenced by a profit motive. When physicians have a financial incentive to refer patients for health care services, this incentive may affect utilization, patient choice, and competition. Overutilization may occur when items and services are ordered that would not have been ordered absent a profit motive. A patient's choice can be affected when he or she is steered to less convenient, lower quality, or more expensive providers of health care that are sharing profits with, or providing other remuneration to, the referring practitioner. Where referrals are controlled by those sharing profits or receiving other remuneration, the medical marketplace suffers since new competitors may have more difficulty generating business on superior quality, service, or price alone.

By design, the physician self-referral law is intended to disconnect a physician's health care decision making from his or her financial interests in other health care providers and suppliers. Specifically, the law: (1) Prohibits a physician from making referrals for certain designated health services (DHS) payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship (ownership or compensation), unless an exception applies; and (2) prohibits the entity from filing claims with Medicare (or billing another individual, entity, or third party payer) for those referred services. The prohibitions are absolute unless the physician's referral is permitted under an enumerated exception. The statute establishes a number of specific exceptions, and grants the Secretary the authority to create regulatory exceptions for financial relationships that do not pose a risk of program or patient abuse. For more information, please refer to the CMS physician self-referral website at *https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html?redirect=/PhysicianSelfReferral/.*

CMS is aware of the effect the physician self-referral law may have on parties participating or considering participation in integrated delivery models, alternative payment models, and arrangements to incent improvements in outcomes and reductions in cost. The President's Budget for fiscal year (FY) 2019 included a legislative proposal to establish a new exception to the physician self-referral law for arrangements that arise due to participation in alternative payment models. In addition to this legislative proposal, CMS has engaged stakeholders through comment solicitations in several recent rulemakings. In 2017, through the annual payment rules, CMS asked for comments on improvements that can be made to the health care delivery system that reduce unnecessary burdens for clinicians, other providers, and patients and their families. In response, commenters shared additional information regarding the barriers to participation in health care delivery and payment reform efforts, both public and private, as well as the burdens of compliance with the physician self-referral law and our regulations as they exist today. As a result of our review of these comments, and with a goal of reducing regulatory burden and dismantling barriers to value-based care transformation, while also protecting the integrity of the Medicare program, we are requesting additional information in this RFI. We are particularly interested in your thoughts on issues that include, but are not limited to, the structure of arrangements between parties that participate in alternative payment models or other novel financial arrangements, the need for revisions or additions to exceptions to the physician self-referral law, and terminology related to alternative payment models and the physician self-referral law. We look forward to receiving your input on this RFI.

III. Request for Information

We are requesting public input on the following areas:

1. Please tell us about either existing or potential arrangements that involve DHS entities and referring physicians that participate in alternative payment models or other novel financial arrangements, whether or not such models and financial arrangements are sponsored by CMS. Please include a description of the alternative payment model(s) and novel financial arrangements if not sponsored by CMS. We recommend that you identify concerns regarding the applicability of existing exceptions to the physician self-referral law and/or the ability of the arrangements to satisfy the requirements of an existing exception, as well as the extent to which the physician self-referral law may be impacting commercial alternative payment models and novel financial arrangements. Please be specific regarding the terms of the arrangements with respect to the following:

- The categories/types of parties (for example, the parties are a hospital and physician group with downstream payments to individual physicians in the group).
- Which parties bear risk (and how and to what extent) under the arrangement (for example, per capita payments from a payor are paid to a hospital with downstream payments on a discounted fee schedule to individual physicians; a bundled payment from a payor for all hospital and physician services is split between a hospital and physicians based on a predetermined percentage; hospital-sponsored gainsharing program where participating physicians share in cost savings; physician incentive payments are available for achieving predetermined metrics; etc.).
- The scope of the arrangement (for example, non-Medicare beneficiaries only, Medicare beneficiaries only, or all patients regardless of payor).
- The timeframe of the arrangement (for example, ongoing or for a duration that aligns with a payor-specific initiative).
- Items and services provided under the arrangement and by whom (for example, infrastructure, such as electronic health records technology; physician services; care coordination services; etc.).
- How the arrangement furthers the purpose of the alternative payment model or novel financial arrangement.
- Whether and, if so, how the arrangement mitigates the financial incentives for inappropriate self-referrals, and/or overutilization of items and services, and patient choice.

2. What, if any, additional exceptions to the physician self-referral law are necessary to protect financial arrangements between DHS entities and referring physicians who participate in the same alternative payment model? Specifically—

- What additional exceptions are necessary to protect accountable care organization models?
- What additional exceptions are necessary to protect bundled payment models?
- What additional exceptions are necessary to protect two-sided risk models in a FFS environment?
- What additional exceptions are necessary to protect other payment models (please explain the nature and design of such models)?
- How (if at all) should a new exception (or exceptions) protect individual DHS referrals (see 42 CFR 411.355), ownership or investment interests (see 42 CFR 411.356), or compensation arrangements (see 42 CFR 411.357)?

3. What, if any, additional exceptions to the physician self-referral law are necessary to protect financial arrangements that involve integrating

and coordinating care outside of an alternative payment model? Specifically, what types of financial arrangements and/or remuneration related to care integration and coordination should be protected and why? How (if at all) should a new exception (or exceptions) protect individual DHS referrals (see 42 CFR 411.355), ownership or investment interests (see 42 CFR 411.356), or compensation arrangements (see 42 CFR 411.357)?

4. Please share your thoughts on the utility of the current exception at 42 CFR 411.357(n) for risk-sharing arrangements.

5. Please share your thoughts on the utility of the special rule for compensation under a physician incentive plan within the exception at 42 CFR 411.357(d) for personal service arrangements.

6. Please share your thoughts on possible approaches to address the application of the physician self-referral law to financial arrangements among participants in alternative payment models and other novel financial arrangements. Consider the following:

- Would a single exception provide sufficient protection for all types of financial arrangements?
- Would a multifaceted approach that amends existing exceptions and/or establishes new exceptions be preferable?
- Would such a multifaceted approach sufficiently allow parties to identify and satisfy the requirements of one (or more) applicable exceptions in order to protect individual DHS referrals, ownership or investment interests, and/or compensation arrangements?

7. In the context of health care delivery, payment reform, and the physician self-referral law, please share your thoughts on definitions for critical terminology such as—

- Alternative payment model
- Care coordination
- Clinical integration
- Financial integration
- Risk
- Risk-sharing
- Physician incentive program
- Gainsharing
- Health plan
- Health system
- Integrated delivery system
- Enrollee

8. Please identify and suggest definitions for other terminology relevant to the comments requested in this RFI.

9. Please share your thoughts on possible approaches to defining ''commercial reasonableness'' in the context of the exceptions to the physician self-referral law.

10. Please share your thoughts on possible approaches to modifying the definition of ''fair market value'' consistent with the statute and in the context of the exceptions to the physician self-referral law.

11. Please share your thoughts on when, *in the context of the physician self-referral law,* compensation should be considered to ''take into account the volume or value of referrals'' by a physician or ''take into account other business generated'' between parties to an arrangement. Please share with us, by way of example or otherwise, compensation formulas that do *not* take into account the volume or value of referrals by a physician or other business generated between parties.

12. Please share your thoughts on when, *in the context of alternative payment models and other novel financial arrangements,* compensation should be considered to ''take into account the volume or value of referrals'' by a physician or ''take into account other business generated'' between parties to an arrangement. Please share with us, by way of example or otherwise, compensation formulas that do *not* take into account the volume or value of referrals by a physician or other business generated between parties.

13. Please share your thoughts regarding whether and, if so, what barriers exist to qualifying as a ''group practice'' under the regulations at 42 CFR 411.352.

14. Please share your thoughts on the application and utility of the current exception at 42 CFR 411.357(g) for remuneration unrelated to DHS. Specifically, how could CMS interpret this exception to cover a broader array of arrangements?

15. Please identify any provisions, definitions, and/or exceptions in the regulations at 42 CFR 411.351 through 411.357 for which additional clarification would be useful.

16. Please share your thoughts on the role of transparency in the context of the physician self-referral law. For example, if provided by the referring physician to a beneficiary, would transparency about physician's financial relationships, price transparency, or the availability of other data necessary for informed consumer purchasing (such as data about quality of services provided) reduce or eliminate the harms to the Medicare program and its beneficiaries that the physician self-referral law is intended to address?

17. Please share your thoughts on whether and how CMS could design a model to test whether transparency safeguards other than those currently contained in the physician self-referral law could effectively address the impact of financial self-interest on physician medical decision-making.

18. Please share your thoughts on the compliance costs for regulated entities.

19. Please identify any recent studies assessing the positive or negative effects of the physician self-referral law on the healthcare industry. To the extent publicly available, please provide a copy of the study(ies).

20. Please share your thoughts regarding whether CMS should measure the effectiveness of the physician self-referral law in preventing unnecessary utilization and other forms of program abuse relative to the cost burden on the regulated industry and, if so, how CMS could estimate this.

Respondents are encouraged to provide complete but concise and organized responses, including any relevant data and specific examples. However, respondents are not required to address every issue or respond to every question discussed in this RFI to have their responses considered. In accordance with the implementing regulations of the Paperwork Reduction Act at 5 CFR 1320.3(h)(4), all responses will be considered provided they contain information CMS can use to identify and contact the commenter, if needed.

Please note, this is a request for information only. As previously stated, respondents are encouraged to provide complete but concise responses. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), application, proposal abstract, or quotation. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, CMS is not seeking proposals through this RFI and will not accept unsolicited proposals. Respondents are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. Please note that CMS will not respond to questions about the policy issues raised in this RFI. CMS may or may not

choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review RFI responses.

Responses to this RFI are not offers and cannot be accepted by the U.S. Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the U.S. Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur costs for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. CMS may publicly post the comments received, or a summary thereof.

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. However, section III. of this document does contain a general solicitation of comments in the form of a request for information. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we may respond to the comments in the preamble to that document.

Dated: June 19, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–13529 Filed 6–20–18; 4:15 pm]

BILLING CODE 4120–01–P

Notices

Federal Register

Vol. 83, No. 122

Monday, June 25, 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

Submission for OMB Review; Comment Request

June 20, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 25, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Gypsy Moth Host Materials from Canada.

OMB Control Number: 0579–0142.

Summary of Collection: The United States Department of Agriculture (USDA) is responsible for preventing plant diseases or insect pests from entering the United States, preventing the spread of pests not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests. The Plant Protection and Quarantine program within USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for ensuring that these regulations are enforced.

Need and Use of the Information: APHIS will collect information from individuals both within and outside the United States using phytosanitary certificates, certificates of origin, a written statement, a compliance agreement and an emergency Action notice. Information collected will ensure that importing foreign logs, trees, shrubs, and other articles do not harbor plant or insect pests such as the gypsy moth. Failing to collect this information would cripple APHIS' ability to ensure that trees, shrubs, logs, and a variety of other items imported from Canada do not harbor gypsy moths.

Description of Respondents: Business or other for-profit; Individuals or households; Federal Government.

Number of Respondents: 2,526.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 212.

Animal and Plant Health Inspection Service

Title: Importation of Clementines from Spain.

OMB Control Number: 0579–0203.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests. The regulations in ''Subpart—Fruits and Vegetables,'' 7 CFR 319.56 through 319.56–81, prohibits or restrict the importation of certain fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pest, including fruit flies. Under the regulations, clementines from Spain are subject to certain conditions before entering the United States to ensure that exotic plant pest, such as the Mediterranean fruit fly, are not introduced into the United States.

Need and Use of the Information: APHIS uses the following information collection activities to allow the importation of Clementines from Spain when the requirements include: Provisions that the Clementines be grown in accordance with a Mediterranean fruit fly management program established by the Government of Spain; Trapping and Control Records; Phytosanitary Certificate; Labeling and Traceback; Cold Treatment Data for Consignments; Trust Fund Agreement; Grower Registration and Agreement; Management Program Mediterranean Fruit Fly Monitoring; Cold Treatment Facility/Carrier Certification; Workplan, Advance Reservations for Cold Treatment Port Space; and Emergency Action Notification.

Failure to collect this information would cripple APHIS' ability to ensure that clementines from Spain are not carrying fruit flies.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 23.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 8,774.

Animal and Plant Health Inspection Service

Title: Importation of Longan from Taiwan.

OMB Control Number: 0579–0351.

Summary of Collection: Under the Plant Protection Act (7 U.S.C 7701), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed

throughout the United States. The fruits and vegetables regulations allow the importation of commercial shipments of fresh longan with stems from Taiwan into the United States. As a condition of entry, the longan will be subject to cold treatment and special port-of-arrival inspection procedures for certain quarantine pests.

Need and Use of the Information: APHIS will use the following information collection activities to allow the import of commercial shipment of fresh longan with stems from Taiwan into the United States: Phytosanitary Certificate, Inspection by NPPOs in Taiwan, Stamping of Boxes and Emergency Action Notification. Failing to collect this information would cripple APHIS ability to ensure that longan from Taiwan are not carrying plant pests.

Description of Respondents: Business or other for-profits; Federal Government.

Number of Respondents: 2.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 33.

Animal and Plant Health Inspection Service

Title: Importation of Fresh Pitaya Fruit from Central America into the Continental United States.

OMB Control Number: 0579–0378.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. The regulations ''Subpart-Fruit and Vegetables'' (7 CFR 319.56–1 through 319 56–71), prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are not widely distributed within the United States. The Animal and Plant Health Inspection Service (APHIS) allows the importation of fresh pitaya fruit from Central America into the continental United States.

Need and Use of the Information: The Animal and Plant Health Inspection Service uses the following activities to collect information: Production Site Certification, Production Site Registration, Review and Maintain Documents, Registration of Packinghouses, Packinghouse Inspections and Investigations, Bilateral Workplans, Records of Fruit Fly Detections and Update Records, Shipping Documents Identifying the Places of Production, Phytosanitary Certificates with Additional Declarations, Box Markings, Production Site Training Program, Emergency Action Notifications, and Notices of Arrival. If the information is not collected, APHIS' ability to protect the United States from plant pest would be severely compromised.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 66.

Frequency of Responses: Reporting, Recordkeeping, Third-party disclosure: On occasion.

Total Burden Hours: 1,289.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–13551 Filed 6–22–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for the Section 533 Housing Preservation Grants for Fiscal Year 2018

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS), an Agency within Rural Development, announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. This action is taken to comply with Agency regulations which requires the Agency to announce the opening and closing dates for receipt of pre-applications for HPG funds from eligible applicants.

The Agency has published the amount of funding received in the Consolidated Appropriations Act, 2018 (Pub. L. 115–141, March 23, 2018) on its website at *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.* Expenses incurred in developing applications will be at the applicant's risk.

DATES: The closing deadline for receipt of all pre-applications in response to this Notice is 5:00 p.m., local time for each Rural Development State Office on August 9, 2018 regardless of delivery method (hand delivered, electronic, mail, or a combination thereof). Rural Development State Office locations can be found at: *http://www.rd.usda.gov/contact-us/state-offices.* RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Bonnie Edwards-Jackson, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, USDA Rural Development, STOP 0781, 1400 Independence Avenue SW, Washington, DC 20250–0781, telephone (202) 690–0759 (voice) (this is not a toll-free number) or (800) 877–8339 (TDD-Federal Information Relay Service) or via email at, *bonnie.edwards@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Preface

The Agency encourages applications that will help improve life in rural America. See information on the Interagency Task Force on Agriculture and Rural Prosperity found at *www.usda.gov/ruralprosperity.* Applicants are encouraged to consider projects that provide measurable results in helping rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Key strategies include:

- Achieving e-Connectivity for Rural America
- Developing the Rural Economy
- Harnessing Technological Innovation
- Supporting a Rural Workforce
- Improving Quality of Life

Overview

Federal Agency Name: USDA Rural Housing Service.

Funding Opportunity Title: Housing Preservation Grants.

Announcement Type: Notice.

Catalog of Federal Domestic Assistance Number: 10.433.

Paperwork Reduction Act

The reporting requirements contained in this Notice have been approved by the Office of Management and Budget under Control Number 0575–0115.

A. Program Description

The HPG program is a grant program, authorized under 42 U.S.C. 1490m and implemented at 7 CFR part 1944, subpart N, which provides qualified public agencies, private non-profit organizations including, but not limited to, Faith-Based and neighborhood partnerships, and other eligible entities,

grant funds to assist low- and very low-income homeowners in repairing and rehabilitating their homes in rural areas. In addition, the HPG program assists rental property owners and cooperative housing complexes in rural areas in repairing and rehabilitating their units if they agree to make such units available to low- and very low-income persons.

B. Federal Award Information

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established at the National level. In accordance with 7 CFR 1944.652, coordination and leveraging of funding for repair and rehabilitation activities with housing and community development organizations or activities operating in the same geographic area are expected, but not required. You should contact the Rural Development State Office to determine the allocation. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for Fiscal Year (FY) 2018 HPG program funds. New HPG applications must be submitted for the renewal or supplementation of existing HPG repair and/or rehabilitation projects that will be completed with FY 2018 HPG funds.

The amount of funding available for the HPG program may be found at the following link: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Priorities such as Rural Economic Area Partnership Zones and other funds will be distributed under a formula allocation to states pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on pre-application scores. Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development website periodically for updated information regarding the status of funding authorized for this program.

The commitment of program dollars will be made to selected applicants that have fulfilled the necessary requirements for obligation.

C. Eligibility Information

1. *Eligible Applicants.* Eligible entities for these competitively awarded grants include State and local Governments, non-profit corporations, which may include, but not be limited to Faith-Based and community organizations, federally recognized Indian Tribes, and consortia of eligible entities. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for FY 2018 HPG program funds. More eligibility requirements can be found at 7 CFR 1944.658, 1944.661, and 1944.662.

2. *Cost Sharing or Matching.* Pursuant to 7 CFR 1944.652, grantees are expected to coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations or activities operating in the same geographic area. While HPG funds may be leveraged with other resources, cost sharing or matching is not a requirement for the HPG applicant as the HPG applicant would not be denied an award of HPG funds if all other project selection criteria have been met.

3. *Other.* Awards made under this Notice are subject to the provisions contained in the Consolidated Appropriations Act, 2018 (Pub. L. 115–141, March 23, 2018) sections 745 and 746 regarding corporate felony convictions and corporate Federal tax delinquencies. To comply with these provisions, only applicants that are or propose to be corporations will submit this form as part of their pre-application. Form AD–3030 can be found here: *http://www.ocio.usda.gov/document/ad3030.*

D. Application and Submission Information

1. *Address to Request Application Package:* Applicants wishing to submit a paper application in response to this Notice must contact the Rural Development State Office serving the State of the proposed HPG housing project in order to receive further information and copies of the paper application package. You may find the addresses and contact information for each State Office following this web link, *http://www.rd.usda.gov/contact-us/state-offices.* Rural Development will date and time stamp incoming paper applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt. You may access the electronic grant pre-application for Housing Preservation Grants at: *http://www.grants.gov.*

2. *Content and Form of Application:* 7 CFR part 1944, subpart N provides details on what information must be contained in the pre-application package. Entities wishing to apply for assistance should contact the Rural Development State Office to receive further information, the State allocation of funds, and copies of the pre-application package. Unless otherwise noted, applicants wishing to apply for assistance must make its statement of activities available to the public for comment. The applicant(s) must announce the availability of its statement of activities for review in a newspaper of general circulation in the project area and allow at least 15 days for public comment. The start of this 15-day period must occur no later than 16 days prior to the last day for acceptance of pre-applications by the U.S. Department of Agriculture (USDA)-Rural Development. Federally recognized Indian Tribes, pursuant to 7 CFR 1944.674, are exempt from the requirement to consult with local leaders including announcing the availability of its statement of activities for review in a newspaper.

All applicants will file an original and two copies of Standard Form (SF) 424, ''Application for Federal Assistance,'' and supporting information with the appropriate Rural Development State Office. A pre-application package, including SF–424, is available in any Rural Development State Office. All pre-applications shall be accompanied by the following information which Rural Development will use to determine the applicant's eligibility to undertake the HPG program and to evaluate the pre-application under the project selection criteria of 7 CFR 1944.679.

(a) A statement of activities proposed by the applicant for its HPG program as appropriate to the type of assistance the applicant is proposing, including:

(1) A complete discussion of the type of and conditions for financial assistance for housing preservation, including whether the request for assistance is for a homeowner assistance program, a rental property assistance program, or a cooperative assistance program;

(2) The process for selecting recipients for HPG assistance, determining housing preservation needs of the dwelling, performing the necessary work, and monitoring/inspecting work performed;

(3) A description of the process for coordinating with other public and private organizations and programs that provide assistance in rehabilitation of historic properties in accordance with 7 CFR 1944.673;

(4) The development standard(s) the applicant will use for the housing preservation work; and, if not the Rural Development standards for existing dwellings, the evidence of its acceptance by the jurisdiction where the grant will be implemented;

(5) The time schedule for completing the program;

(6) The staffing required to complete the program;

(7) The estimated number of very low- and low-income minority and nonminority persons the grantee will assist with HPG funds; and, if a rental property or cooperative assistance program, the number of units and the term of restrictive covenants on their use for very low- and low-income;

(8) The geographical area(s) to be served by the HPG program;

(9) The annual estimated budget for the program period based on the financial needs to accomplish the objectives outlined in the proposal. The budget should include proposed direct and indirect administrative costs, such as personnel, fringe benefits, travel, equipment, supplies, contracts, and other cost categories, detailing those costs for which the grantee proposes to use the HPG grant separately from non-HPG resources, if any. The applicant budget should also include a schedule (with amounts) of how the applicant proposes to draw HPG grant funds, *i.e.,* monthly, quarterly, lump sum for program activities, etc.;

(10) A copy of an indirect cost proposal when the applicant has another source of Federal funding in addition to the Rural Development HPG program;

(11) A brief description of the accounting system to be used;

(12) The method of evaluation to be used by the applicant to determine the effectiveness of its program which encompasses the requirements for quarterly reports to Rural Development in accordance with 7 CFR 1944.683(b) and the monitoring plan for rental properties and cooperatives (when applicable) according to 7 CFR 1944.689;

(13) The source and estimated amount of other financial resources to be obtained and used by the applicant for both HPG activities and housing development and/or supporting activities;

(14) The use of program income, if any, and the tracking system used for monitoring same;

(15) The applicant's plan for disposition of any security instruments held by them as a result of its HPG activities in the event of its loss of legal status;

(16) Any other information necessary to explain the proposed HPG program; and

(17) The outreach efforts outlined in 7 CFR 1944.671(b).

(b) Complete information about the applicant's experience and capacity to carry out the objectives of the proposed HPG program.

(c) Evidence of the applicant's legal existence, including, in the case of a private non-profit organization, which may include, but not be limited to, Faith-Based and community organizations, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; and the names and addresses of the applicant's members, directors and officers. If other organizations are members of the applicant-organization, or the applicant is a consortium, pre-applications should be accompanied by the names, addresses, and principal purpose of the other organizations. If the applicant is a consortium, documentation showing compliance with paragraph (4)(ii) under the definition of ''organization'' in 7 CFR 1944.656 must also be included.

(d) For a private non-profit entity, which may include, but not be limited to, Faith-Based and community organizations, the most recent audited statement and a current financial statement dated and signed by an authorized officer of the entity showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt(s) owed by the applicant.

(e) A brief narrative statement which includes information about the area to be served and the need for improved housing (including both percentage and the actual number of both low-income and low-income minority households and substandard housing), the need for the type of housing preservation assistance being proposed, the anticipated use of HPG resources for historic properties, the method of evaluation to be used by the applicant in determining the effectiveness of its efforts.

(f) A statement containing the component for alleviating any overcrowding as defined by 7 CFR 1944.656.

(g) A signed copy of the documentation in accordance with 7 CFR 1944.673 (as a companion to (a)(3) above);

(h) The applicant must submit written statements and related correspondence reflecting compliance with 7 CFR 1944.674(a) and (c) regarding consultation with local Government leaders in the preparation of its program and the consultation with local and State Government pursuant to the provisions of Executive Order 12372.

(i) The applicant is to make its statement of activities available to the public for comment prior to submission to Rural Development pursuant to 7 CFR 1944.674(b). The application must contain a description of how the comments (if any were received) were addressed.

(j) The applicant must submit an original and one copy of Form RD 400–1, ''*Equal Opportunity Agreement,*'' and Form RD 400–4, ''*Assurance Agreement,*'' in accordance with 7 CFR 1944.676.

Applicants should review 7 CFR part 1944, subpart N for a comprehensive list of all application requirements.

3. *Address unique entity identifier and System for Award Management (SAM):* As part of the application, all applicants, except for individuals or agencies excepted under 2 CFR 25.110(d), must be: (1) Registered in the System for Award Management (SAM); (2) provide a valid unique entity identifier in its applications; and (3) maintain an active SAM registration with current information at all times during which it has an active Federal award or application. An award may not be made to the applicant until the applicant has complied with the unique entity identifier and SAM requirements.

4. *Intergovernmental Review:* The HPG program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

5. *Funding Restrictions:* There are no limits on proposed direct and indirect costs. Expenses incurred in developing pre-applications will be at the applicant's risk.

6. *Other Submission Requirements:* To comply with the President's Management Agenda, USDA is participating as a partner in the Government-wide *grants.gov* site. Housing Preservation Grants [Catalog of Federal Domestic Assistance #10.433] is one of the programs included at this website. If you are an applicant under the HPG program, you may submit your pre-application to the Agency in either electronic or paper format. Please be mindful that the pre-application deadline for electronic format differs from the deadline for paper format. The electronic format deadline will be based on Eastern Standard Time. The paper format deadline is local time for each Rural Development State Office.

Users of *Grants.gov* will be able to download a copy of the pre-application

package, complete it off line, and then upload and submit the application via the *Grants.gov* site. You may not email an electronic copy of a grant pre-application to USDA Rural Development; however, the Agency encourages your participation in *Grants.gov*.

The following are useful tips and instructions on how to use the website:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA-Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through *Grants.gov*. To use *Grants.gov*, applicants must have a DUNS number.
- You may submit all documents electronically through the website, including all information typically included on the Application for Housing Preservation Grants, and all necessary assurances and certifications.
- After you electronically submit your application through the website, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.
- RHS may request that you provide original signatures on forms at a later date.
- If you experience technical difficulties on the closing date and are unable to meet the 5:00 p.m. (Eastern Standard Time) deadline, print out your application and submit it to your State Office, you must meet the closing date and local time deadline.
- Please note that you must locate the downloadable application package for this program by the CFDA Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov.*

In addition to the electronic pre-application at the *http://www.grants.gov* website, all applicants must complete and submit the FY 2018 pre-application package, detailed later in this Notice, for the Section 533 HPG program. A copy of a suggested coversheet is included with this Notice. Applicants are encouraged to submit this pre-application coversheet electronically by accessing the website: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Click on the Forms & Resources tab to access the ''FY 2018 Pre-application for Section 533 Housing Preservation Grants (HPG).''

Applicants are encouraged, but not required, to also provide an electronic copy of all hard copy forms and documents submitted in the pre-application/application package as requested by this Notice. The forms and documents must be submitted as read-only Adobe Acrobat PDF files on an electronic media such as CDs, DVDs or USB drives. For each electronic device that you submit, you must include a Table of Contents listing all of the documents and forms on that device. The electronic medium must be submitted to the local Rural Development State Office where the project will be located.

Please Note: If you receive a loan or grant award under this Notice, USDA reserves the right to post all information that is not protected by the Privacy Act submitted as part of the pre-application/application package on a public website with free and open access to any member of the public.

E. Application Review Information

1. *Criteria.* All paper applications for Section 533 HPG funds must be filed with the appropriate Rural Development State Office and all paper or electronic applications must meet the requirements of this Notice and 7 CFR part 1944, subpart N. Pre-applications determined not eligible and/or not meeting the selection criteria will be notified by the Rural Development State Office.

2. *Review and Selection Process.* The Rural Development State Offices will utilize the following threshold project selection criteria for applicants in accordance with 7 CFR 1944.679:

(a) Providing a financially feasible program of housing preservation assistance. ''Financially feasible'' is defined as proposed assistance which will be affordable to the intended recipient or result in affordable housing for very low- and low-income persons.

(b) Serving eligible rural areas with a concentration of substandard housing for households with very low- and low-income.

(c) Being an eligible applicant as defined in 7 CFR 1944.658.

(d) Meeting the requirements of consultation and public comment in accordance with 7 CFR 1944.674.

(e) Submitting a complete pre-application as outlined in 7 CFR 1944.676.

3. *Scoring.* For applicants meeting all of the requirements listed above, the Rural Development State Offices will use weighted criteria in accordance with 7 CFR part 1944, subpart N as selection for the grant recipients. Each pre-application and its accompanying statement of activities will be evaluated and, based solely on the information contained in the pre-application, the applicant's proposal will be numerically rated on each criteria within the range provided. The highest-ranking applicant(s) will be selected based on allocation of funds available to the State.

(a) Points are awarded based on the percentage of very low-income persons that the applicant proposes to assist, using the following scale:

(1) More than 80%: 20 points
(2) 61% to 80%: 15 points
(3) 41% to 60%: 10 points
(4) 20% to 40%: 5 points
(5) Less than 20%: 0 points

(b) The applicant's proposal may be expected to result in the following percentage of HPG fund use (excluding administrative costs) to total cost of unit preservation. This percentage reflects maximum repair or rehabilitation with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches. Points are awarded based on the following percentage of HPG funds (excluding administrative costs) to total funds:

(1) 50% or less: 20 points
(2) 51% to 65%: 15 points
(3) 66% to 80%: 10 points
(4) 81% to 95%: 5 points
(5) 96% to 100%: 0 points

(c) The applicant has demonstrated its administrative capacity in assisting very low- and low-income persons to obtain adequate housing based on the following:

(1) The organization or a member of its staff has at least one or more years' experience successfully managing and operating a rehabilitation or weatherization type program: 10 points.

(2) The organization or a member of its staff has at least one or more years' experience successfully managing and operating a program assisting very low- and low-income persons obtain housing assistance: 10 points.

(3) If the organization has administered grant programs, there are no outstanding or unresolved audit or investigative findings which might impair carrying out the proposal: 10 points.

(d) The proposed program will be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (*i.e.,* rural areas contained in MSAs with less than 5,000 population) as defined in 7 CFR 1944.656: 10 points.

(e) The program will use less than 20 percent of HPG funds for administration purposes:

(1) More than 20%: Not eligible
(2) 20%: 0 points

(3) 19%: 1 point
(4) 18%: 2 points
(5) 17%: 3 points
(6) 16%: 4 points
(7) 15% or less: 5 points

(f) The proposed program contains a component for alleviating overcrowding as defined in 7 CFR 1944.656: 5 points.

In the event more than one pre-application receives the same amount of points, those pre-applications will then be ranked based on the actual percentage figure used for determining the points. Further, in the event that pre-applications are still tied, then those pre-applications still tied will be ranked based on the percentage for HPG fund use (low to high). Further, for applications where assistance to rental properties or cooperatives is proposed, those still tied will be further ranked based on the number of years the units are available for occupancy under the program (a minimum of 5 years is required). For this part, ranking will be based from most to least number of years.

Finally, if there is still a tie, then a lottery system will be used. After the award selections are made, all applicants will be notified of the status of their applications by mail.

F. Federal Award Administration Information

1. *Federal Award Notices.* The Agency will notify, in writing, applicants whose pre-applications have been selected for funding. At the time of notification, the Agency will advise the applicant what further information and documentation is required along with a timeline for submitting the additional information. If the Agency determines it is unable to select the application for funding, the applicant will be so informed in writing. Such notification will include the reasons the applicant was not selected. The Agency will advise applicants, whose pre-applications did not meet eligibility and/or selection criteria, of their review rights or appeal rights in accordance with 7 CFR 1944.682.

2. *Administrative and National Policy Requirements.* Rural Development is encouraging applications for projects that will support rural areas with persistent poverty. This emphasis will support Rural Development's mission of improving the quality of life for Rural Americans and commitment to directing resources to those who most need them.

3. *Reporting.* Post-award reporting requirements can be found in the Grant Agreement.

G. Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees and institutions participating in or administering USDA programs are prohibited from discrimination based on race, color, national origin, religion, sex, gender identity, (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Dated: June 18, 2018.

Joel C. Baxley,

Administrator, Rural Housing Service.

Fiscal Year 2018 Pre-Application for Section 533 Housing Preservation Grants (HPG) Instructions

Applicants are encouraged; but not required, to submit this pre-application form electronically by accessing the website: *http://www.rd.usda.gov/programs-services/housing-preservation-grants*. Click on the Forms & Resources tab to access the ''Fiscal Year 2018 Pre-Application for Section 533 Housing Preservation Grants (HPG).'' Please note that electronic submittals are not on a secured website. If you do not wish to submit the form electronically by clicking on the Send Form button, you may still fill out the form, print it and submit it with your application package to the State Office. You also have the option to save the form, and submit it on an electronic media to the State Office.

Supporting documentation required by this pre-application may be attached to the email generated when you click the Send Form button to submit the form. However, if the attachments are too numerous or large in size, the email box will not be able to accept them. In that case, submit the supporting documentation for this pre-application to the State Office with your complete application package under item IX.

Documents Submitted, indicate the supporting documents that you are submitting either with the pre-application or to the State Office.

BILLING CODE 3410–XV–P

I. Applicant Information

a. Applicant's Name: _____

b. Applicant's Address:

Address, Line 1: _____

Address, Line 2: _____

City: _____ **State:** _____ **Zip:** _____

c. Name of Applicant's Contact Person: _____

d. Contact Person's Telephone Number: _____

e. Contact Person's E-Mail Address: _____

f. Entity Type: ☐ State Government ☐ Local Government

(Check One) ☐ Non-Profit Corporation ☐ Federally Recognized Indian Tribes

☐ Faith-Based and neighborhood partnership

☐ Community Organization

☐ Other consortia of an eligible entity

II. Project Information

a. Project Name: _____

b. Project Address:

Address, Line 1: _____

Address, Line 2: _____

City: _____ **State:** _____ **Zip:** _____

c. Organization DUNS Number: _____

d. Grant Amount Requested: $_____

e. This grant request is for one of the following types of assistance:

☐ Homeowner assistance program

☐ Rental property assistance program

☐ Cooperative assistance program

f. In response to e. above, answer one of the following:

The number of low- and very low-income persons that the grantee will assist in the Homeowner assistance program: _____ **OR**

The number of units for low- and very low-income persons in the Rental property or Cooperative assistance program: _____

g. This proposal is for one of the following:

☐ Housing Preservation Grant (HPG) program (no set-aside)

☐ Set-Aide for grant located in a Rural Economic Area Partnership (REAP) Zone

III. Low-Income Assistance

Check the percentage of very low-income persons that this pre-application proposes to assist in relation to the total population of the project:

☐ More than 80 percent (20 points)

☐ 61 percent to 80 percent (15 points)

☐ 41 percent to 60 percent (10 points)

☐ 20 percent to 40 percent (5 points)

☐ Less than 20 percent (0 points)

Points: ____

IV. Percent of HPG Fund Use

Check the percentage of HPG fund use (excluding administrative costs) in comparison to the total cost of unit preservation. This percentage reflects maximum repair or rehabilitation results with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches.

☐ 50 percent or less of HPG funds (20 points)

☐ 51 percent to 65 percent of HPG funds (15 points)

☐ 66 percent to 80 percent of HPG funds (10 points)

☐ 81 percent to 95 percent of HPG funds (5 points)

☐ 96 percent to 100 percent of HPG funds (0 points)

Points: ____

V. Administrative Capacity

The following three criteria demonstrate your administrative capacity to assist very low- and low-income persons to obtain adequate housing (30 points maximum).

a. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a rehabilitation or weatherization type of program? (10 points) Yes ___ No ___ **Points: ____**

b. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a program assisting very low- or low-income persons obtain housing assistance? (10 points) Yes ___ No ___ **Points: ____**

c. If this organization has administered grant programs, are there any outstanding or unresolved audit or investigative findings which might impair carrying out the proposal? (10 points for No) No ___ Yes ___ **Points: ____**

If Yes, please explain:

_____

_____

_____

VI. Area Served

Will this proposal be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, and identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (i.e., rural areas contained in MSAs with a population of less than 5,000) as defined in 7CFR 1944.656? (10 points)

Yes ___ No ___ **Points: ____**

VII. Percent of HPG Funds for Administration

Check the percentage of HPG funds that will be used for Administration purposes:

☐ More than 20 percent (Not eligible)

☐ 20 percent (0 points)

☐ 19 percent (1 point)

☐ 18 percent (2 points)

☐ 17 percent (3 points)

☐ 16 percent (4 points)

☐ 15 percent or less (5 points)

Points: ____

VIII. Alleviating Overcrowding

Does the proposed program contain a component for alleviating overcrowding as defined in 7 CFR 1944.656? (5 points) Yes ___ No ___ **Points: ____**

IX. Persistent Poverty Counties

Persistent Poverty Counties. Points will be awarded to projects located in persistent poverty counties. The USDA's Economic Research Service (ERS) (*http://ers.usda.gov/*) is the main source of economic information and research for USDA and a principal agency of the U.S. Federal Statistical System located in Washington, D.C. ERS has defined counties as being persistently poor if 20 percent or more of their populations were living in poverty over the last 30 years (measured by the 1990, 2000 and 2010 decennial censuses and 2007-2011 American Community Survey 5-year estimates): (20 points)

Yes ___ No ___ **Points: ____**

X. Documents Submitted

Check if the following documents are being submitted electronically with this pre-application or will be mailed to the State Office with your complete pre-application package.

NOTE: You are only required to submit supporting documents for programs in which you will be participating as indicated in this pre-application. Points will be assigned for the items that you checked based on a review of the supporting documents.

Please refer to the NOSA for the complete list of documents that you are required to submit with your complete pre-application package.

Reference	Item	Submitted With This Pre-Application	Submitted to State Office
I.	Applicant Information		
II.	Project Information		
III.	Low-Income Assistance		
IV.	Percent of HPG Fund Use		
V.	Administrative Capacity		
VI.	Area Served		
VII.	Percent of HPG Funds for Administration		
VIII.	Alleviating Overcrowding		
IX.	Persistent Poverty County		

B. HPG 2018 Scoring

PLEASE NOTE: The scoring below is based on the responses that you have provided on this pre-application form and may not accord with the final score that the Agency assigns upon evaluating the supporting documentation that you submit. Your score may change from what you see here if the supporting documentation does not adequately support your answer or, if required documentation is missing.

	Scoring Items for HPG 2018	Points Earned
1.	Low-Income Assistance (5, 10, 15, 20)	
2.	Percent of HPG Fund Use (5, 10, 15, 20)	
3.	Administrative Capacity (10, 20, 30)	
4.	Area Served (10)	
5.	Percent of HPG Funds for Administration (1, 2, 3, 4, 5)	
6.	Alleviating Overcrowding (5)	
7.	Persistent Poverty County (20)	
	Total Score:	

Important

By submitting this electronic pre-application form and its supporting documents, you have completed one step of the application process.

You **must** also complete the electronic application at: http://www.grants.gov.

[FR Doc. 2018–13458 Filed 6–22–18; 8:45 am]
BILLING CODE 3410–XV–C

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Washington, DC, Monday through Wednesday, July 9–11, 2018 at the times and location listed below.

DATES: The schedule of events is as follows:

Monday, July 9, 2018

11:00 a.m.–Noon—Technical Programs Committee
1:30 p.m.–2:30 p.m.—Ad Hoc Committee on Design Guidance
2:30 p.m.–4:00 p.m.—Ad Hoc Committee on Frontier Issues

Wednesday, July 11, 2018

9:30 a.m.–10:30 a.m.—Planning and Evaluation Committee
10:30 a.m.–11:00 a.m.—Budget Committee
1:30 p.m.–3:00 p.m.—Board Meeting

ADDRESSES: Meetings will be held at the Access Board Conference Room, 1331 F Street NW, Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: For further information regarding the

meetings, please contact David Capozzi, Executive Director, (202) 272–0010 (voice); (202) 272–0054 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting scheduled on the afternoon of Wednesday, July 11, the Access Board will consider the following agenda items:

- Approval of March 14, 2018 draft meeting minutes (vote)
- Ad Hoc Committee Reports: Design Guidance; Frontier Issues
- Technical Programs Committee
- Budget Committee
- Planning and Evaluation Committee
- Election Assistance Commission Report
- Executive Director's Report
- Public Comment (final 15 minutes of the meeting)

Members of the public can provide comments either in-person or over the telephone during the final 15 minutes of the Board meeting on Wednesday, July 11, 2018. Any individual interested in providing comment is asked to pre-register by sending an email to *bunales@access-board.gov* with the subject line ''Access Board meeting—Public Comment'' with your name, organization, state, and topic of comment included in the body of your email. All emails to register for public comment must be received by Tuesday, July 3. Commenters will be provided with a call-in number and passcode before the meeting. Commenters will be called on in the order by which they are pre-registered. Due to time constraints, each commenter is limited to two minutes. Commenters on the telephone will be in a listen-only capacity until they are called on.

All meetings are accessible to persons with disabilities. An assistive listening system, Communication Access Realtime Translation (CART), and sign language interpreters will be available at the Board meeting and committee meetings.

Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/the-board/policies/fragrance-free-environment* for more information).

You may view the Wednesday, July 11, 2018 meeting through a live webcast from 1:30 p.m. to 3:00 p.m. at: *www.access-board.gov/webcast.*

David M. Capozzi,

Executive Director.

[FR Doc. 2018–13510 Filed 6–22–18; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the North Dakota Advisory Committee to the Commission will convene on Monday, July 9, 2018, at 4:00 p.m. (CDT) at the Fargo Public Central Library, Fercho Room, 102 3rd Street North, Fargo, ND 58102. The purpose of the meeting is to hold the first meeting of the committee and discuss civil rights topics.

DATES: Monday, July 9, 2018 at 4:00 p.m. (CDT).

ADDRESSES: Fargo Public Central Library, Fercho Room, 102 3rd Street North, Fargo, ND 58102.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ebohor@usccr.gov* or by phone at 303–866–1040.

SUPPLEMENTARY INFORMATION: If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the meeting so that members of the public may address the Committee after the planning meeting. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Thursday, August 9, 2018. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1040, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://facadatabase.gov/committee/meetings.aspx?cid=267* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

Monday, July 9, 2018 at 4:00 p.m. (CDT)

I. Roll Call
II. Discuss Civil Rights Topics
IV. Other Business
IV. Open Comment
IV. Adjournment

Dated: June 20, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–13516 Filed 6–22–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security.

Title: Statement by Ultimate Consignee and Purchaser.

Form Number(s): BIS–711.

OMB Control Number: 0694–0021.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 110.

Estimated Number of Respondents: 414.

Estimated Time per Response: 16 minutes.

Needs and Uses: The collection is necessary under Part 748.11 of the EAR. This section states that the Form BIS–711, Statement by Ultimate Consignee and Purchaser, or a statement on company letterhead (in accordance with 748.11(b)(1)), must provide information on the foreign importer receiving the U.S. technology and how the technology will be utilized. The BIS–711 or letter provides assurances from the importer that the technology will not be misused, transferred or re-exported in violation of the EAR.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/*. Follow the

instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–13513 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Office of the Chief Information Officer, Office of the Secretary, Commerce.

Title: The Research Performance Progress Report.

OMB Control Number: 0690–0032.

Form Number(s): None.

Type of Request: Revision of a currently approved collection.

Estimated Number of Respondents: 2,550.

Estimated Time per Response: 5 hours.

Estimated Total Annual Burden Hours: 12,750.

Needs and Uses: The development of the Research Performance Progress Report (RPPR) resulted from an initiative of the Research Business Models (RBM), an Interagency Working Group of the Social, Behavioral & Economic Research, Subcommittee of the Committee on Science (CoS), a committee of the National Science and Technology Council (NSTC). One of the RBM Subcommittee's priority areas was to create greater consistency in the administration of Federal research awards. Given the increasing complexity of interdisciplinary and interagency research, it is important for Federal agencies to manage awards in a similar fashion. The RPPR is an OMB approved uniform format to be used by Federal agencies in submission of progress reports that support research and research-related activities. It is intended to replace other performance reporting formats currently in use by Federal agencies. However, the RPPR does not change the performance reporting requirements specified in 2 CFR 200.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Respondent's Obligation: Mandatory.

Legal Authority: The Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107), and 2 CFR 200.328.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–13512 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–39–2018]

Foreign-Trade Zone (FTZ) 106—Oklahoma City, Oklahoma; Notification of Proposed Production Activity; Eastman Kodak Company (Printing Flexographic Plates); Weatherford, Oklahoma

Eastman Kodak Company (Eastman Kodak) submitted a notification of proposed production activity to the FTZ Board for its facility in Weatherford, Oklahoma. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 13, 2018.

Eastman Kodak already has authority to produce flexographic finished plates, aluminum finished printing plates, thermo imaging layer, direct imaging recording film sheets, and direct imaging record film rolls within Subzone 106F. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Eastman Kodak from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Eastman Kodak would be able to choose the duty rates during customs entry procedures that apply to finished products in the existing scope of authority. Eastman Kodak would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include non-aromatic esters of amino-acids, propylene oxide-modified trimethylol propane triacrylate and foamed polyethylene resin sheet (packaging material used between plates) (duty rates range from 3% to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 6, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 19, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–13540 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2018]

Foreign-Trade Zone 9—Honolulu, Hawaii; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the State of Hawaii, grantee of FTZ 9, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can

permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on June 18, 2018.

FTZ 9 was approved by the FTZ Board on February 15, 1965 (Board Order 65, 30 FR 2377, February 20, 1965); relocated on April 16, 1982 (Board Order 188, 47 FR 18014, April 27, 1982); and expanded on August 21, 1987 (Board Order 359, 52 FR 33458, September 3, 1987), November 16, 1988 (Board Order 399, 53 FR 47842, November 28, 1988), June 9, 1992 (Board Orders 580 and 581, 57 FR 27020, June 17, 1992), June 19, 1995 (Board Order 751, 60 FR 33187, June 27, 1995) and September 6, 2006 (Board Order 1477, 71 FR 54610, September 18, 2006).

The current zone includes the following sites: *Site 1* (17 acres)—Pier 2, 521 Ala Moana, Honolulu; *Site 2* (1,033 acres)—James Campbell Industrial Park, Kalaeloa Boulevard and Malakole Street, Ewa, Oahu; *Site 3* (109 acres)—Mililani Technology Park, 100 Kahelu Avenue, Mililani, Oahu; *Site 4* (60 acres)—Maui Research & Technology Park, 1300 N. Holopono Street, Kihei, Maui; *Site 5* (31 acres)—Hilo Industrial Park, 135 Operations Street, Hilo, Hawaii; *Site 6* (27 acres)—Hawaii Fueling Facilities Corporation, 3201 Aolele Street, Honolulu, Oahu; *Site 7* (7 acres)—Unicold Corporation, 3140 Ualena Street, Honolulu, Oahu; *Site 8* (10 acres)—Hawaii Convention Center, 1801 Kalakaua Avenue, Honolulu, Oahu; and, *Site 9* (870 acres)—Natural Energy Lab of Hawaii Authority, 73–4460 Queen Kaahumanu Highway #101, Kailua-Kona, Hawaii.

The grantee's proposed service area under the ASF would be the City and County of Honolulu, County of Hawaii, County of Kauai, and County of Maui, Hawaii, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the Hilo and Kona (Hawaii), Kahului and Kihei (Maui), Honolulu (Oahu); and, Nawiliwili-Port Allen (Kauai) U.S. Customs and Border Protection ports of entry.

The applicant is requesting authority to reorganize its zone to include existing Sites 2, 3, 4, 5 and 9 as ''magnet'' sites and existing Sites 1, 6, 7 and 8 as usage-driven sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 5 be so exempted. No additional ASF subzones/usage-driven sites are being requested at this time. The application would have no impact on FTZ 9's previously authorized subzones.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 24, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 10, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: June 19, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–13538 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Fuyi Sun a/k/a Frank Sun, Inmate Number: 77362–054, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866.

On August 31, 2017, in the U.S. District Court for the Southern District of New York, Fuyi Sun, a/k/a Frank Sun (''Sun''), was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (''IEEPA''). Specifically, Sun knowingly and willfully attempted to export and cause to be exported from the United States to China Toray type M60JB–3000–50B carbon fiber, without the required U.S. Department of Commerce licenses. Sun was sentenced to 36 months in prison, with credit for time served and a $100 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the Export Administration Act (''EAA'' or ''the Act''), 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Act or Regulations, in which the person had an interest in at the time of his/her conviction.

BIS has received notice of Sun's conviction for violating the IEEPA, and has provided notice and an opportunity for Sun to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Sun.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Sun's export privileges under the Regulations for a period of 10 years from the date of Sun's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Sun

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until August 31, 2027, Fuyi Sun, a/k/a Frank Sun, with a last known address of Inmate Number—77362–054, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Sun by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Sun may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Sun, and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until August 31, 2027.

Dated: June 13, 2018.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–13542 Filed 6–22–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Advance Notification of Sunset Review; Correction

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

Background: On June 1, 2018, the Department of Commerce (Commerce) published the *July 2018 Advance Sunset Review Notice,*[1] in which Commerce inadvertently listed the initiation of Lemon Juice from Argentina (A–357–818) for July 2018. The sunset review of Lemon Juice from Argentina is not scheduled to be initiated in July 2018; the error was based on a former suspension agreement, which was superseded by a new agreement on October 26, 2016.[2] This notice serves to correct the *July 2018 Advance Sunset Review Notice.* There will be no sunset reviews initiated in July 2018, because Lemon Juice from Argentina was the only case for which a sunset review was scheduled.

DATES: Applicable (June 1, 2018).

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs and Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4735.

This correction notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

Dated: June 20, 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. 2018–13541 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review,* 83 FR 25436 (June 1, 2018) (*July 2018 Advance Sunset Review Notice*).

[2] *See Lemon Juice from Argentina: Continuation of Suspension of Antidumping Investigation,* 81 FR 74395 (October 26, 2016).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG303

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a 3-day meeting in July to discuss the items contained in the agenda in the **SUPPLEMENTARY INFORMATION**.

DATES: The meetings will be held from Tuesday, July 17, 2018, at 9 a.m., through Thursday, July 19, 2018, at 5 p.m.

ADDRESSES: The meetings will be held at the Courtyard Marriott Isla Verde

Resort, 7012 Boca de Cangrejos, Avenida Isla Verde, Carolina, Puerto Rico 00979.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION:

—Call to Order

—Adoption of Agenda

—Overview

1. Review outcomes from the May 29, 2018 SSC meeting
2. Review and finalize U.S. Virgin Islands year sequence
3. Review text of Acceptable Biological Catch Control Rule
4. Address outstanding issues for Actions 2 and 3 in the Island Based Fishery Management Plans, including:

a. Clarify rationale for certain recommended species groupings under Action 2

b. Revisit terminal year for Puerto Rico commercial species new to management

c. Other issues

—Recommendations to the Caribbean Fishery Management Council for research priorities

—Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on July 17, 2018 at 9 a.m. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 20, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–13534 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Papahanaumokuakea Marine National Monument Mokupapapa Discovery Center Exhibit Evaluation.

OMB Control Number: 0648–0582.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 250.

Average Hours per Response: 7 minutes.

Burden Hours: 29.

Needs and Uses: This request is for extension of a currently approved information collection. Mokupapapa Discovery Center (Center) is an outreach arm of Papahanaumokuakea Marine National Monument that reaches 65,000 people each year in Hilo, Hawai'i. The Center was opened fifteen years ago to help raise support for the creation of a National Marine Sanctuary in the Northwestern Hawaiian Islands. Since that time, the area has been proclaimed a Marine National Monument and the main messages we are trying to share with the public have changed to better reflect the new monument status, UNESCO World Heritage status and the joint management by the three co-trustees of the Monument. We therefore are seeking to find out if people visiting our Center are receiving our new messages by conducting an optional exit survey.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 20, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–13537 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG308

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC's) Summer Flounder, Scup, and Black Sea Bass Monitoring Committee (MC) will hold a public meeting.

DATES: The meeting will be held on Thursday, July 19, 2018, from 8:30 a.m. to 5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the Hyatt Place Inner Harbor, 511 South Central Avenue, Baltimore, MD 21202; telephone: (410) 558–1840.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will meet to recommend 2019 commercial and recreational Annual Catch Limits (ACLs) and Annual Catch Targets (ACTs) for summer flounder and black sea bass, as well as review the previously implemented 2019 ACLs and ACTs for scup. The Monitoring Committee will consider the results of a collaborative research mesh size study, and review and recommend changes, if needed, to commercial management measures for all three species. Other agenda items include a review of the 2018 black sea bass February recreational fishery, an update on a Management Strategy Evaluation (MSE) for recreational summer flounder management, a discussion of the ongoing Recreational Issues Framework Action/Addendum for all three species,

and a preliminary discussion of revised recreational catch estimates from the Marine Recreational Information Program (MRIP). Meeting materials will be posted to *http://www.mafmc.org/* prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 20, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–13536 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG307

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The meeting will be held on Tuesday, July 17, 2018, from 12:30 p.m. through 5:30 p.m. and on Wednesday, July 18, 2018, from 8:30 a.m. to 12:30 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place at the Hyatt Place Inner Harbor, 511 South Central Avenue, Baltimore, MD 21201; telephone: (410) 558–1840.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to make multi-year acceptable biological catch (ABC) recommendations for Chub Mackerel based on the most recent and appropriate information available. The SSC will also make ABC recommendations for the 2019 fishing year for summer flounder and bluefish based on the most recent fishery information. A review the most recent survey and fishery data and the currently implemented 2019 ABC for scup and the previously recommended 2019 ABC for black sea bass will also be conducted. In addition, the SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 20, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–13535 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG298

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 of the South Atlantic Fishery Management Council's Citizen Science Advisory Panel Action Teams.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the following Citizen Science Advisory Panel Action Teams: Projects/Topics Management; Data Management; Volunteers; and Communication/Outreach/Education. The meetings will be held via webinar.

DATES: The Projects/Topics Management Team meeting will be held on Tuesday, July 10, 2018 at 11 a.m.; Data Management Team on Thursday, July 12, 2018 at 10 a.m.; Volunteers Team on July 12, 2018 at 2 p.m.; and Communication/Outreach/Education Team on Friday, July 13, 2018 at 10 a.m. Each meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar 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 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 Communication/Outreach/Education to develop program policies and operations for the Council's Citizen Science Program.

Each 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**) 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: June 20, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–13533 Filed 6–22–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of 2017 schedule of fees.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization rule enforcement programs, specifically National Futures Association (''NFA''), a registered futures association, and the designated contract markets. Fees collected from each self-regulatory organization are deposited in the Treasury of the United States as miscellaneous receipts. The calculation of the fee amounts charged for 2017 by this notice is based upon an average of actual program costs incurred during fiscal year (''FY'') 2014, FY 2015, and FY 2016.

DATES: Each self-regulatory organization is required to remit electronically the applicable fee on or before August 24, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Jean Buhler, Chief Financial Officer, Commodity Futures Trading Commission; (202) 418–5089; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. For information on electronic payment, contact Jennifer Fleming; (202) 418–5034; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. General

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations [1] and designated contract markets (''DCM''), each of which is a self-regulatory organization (''SRO'') regulated by the Commission. The Commission recalculates the fees charged each year to cover the costs of operating this Commission program.[2] The fees are set each year based on direct program costs, plus an overhead factor. The Commission calculates actual costs, then calculates an alternate fee taking volume into account, and then charges the lower of the two.[3]

B. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs generally consist of the following Commission-wide costs: Indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 180 percent for FY 2014, 211 percent for FY 2015, and 190 percent for FY 2016.

C. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted by the Commission in 1993, the Commission calculates the fee to recover the costs of its rule enforcement reviews and examinations, based on the three-year average of the actual cost of performing such reviews and examinations at each SRO. The cost of operation of the Commission's SRO oversight program varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging computation method is intended to smooth out year-to-year variations in cost. Timing of the Commission's reviews and examinations may affect costs—a review or examination may span two fiscal years and reviews and examinations are not conducted at each SRO each year.

As noted above, adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately large share of program costs. The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that, as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation is made as follows: The fee required to be paid to the Commission by each DCM is equal to the lesser of actual costs based on the three-year historical average of costs for that DCM or one-half of average costs incurred by the Commission for each DCM for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all DCMs for the most recent three years.

The formula for calculating the second factor is: 0.5a + 0.5 vt = current fee. In this formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across DCMs over the last three years, and ''t'' equals the average annual costs for all DCMs. NFA has no contracts traded; hence, its fee is based simply on costs for the most recent three fiscal years. The following table summarizes the data used in the calculations of the resulting fee for each entity:

TABLE 1—SUMMARY OF DATA USED IN FEE CALCULATIONS

	Actual total costs			3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2016 Actual fee	2017 Assessed fee
	FY 2014	FY 2015	FY 2016					
CBOE Futures	.....	$158,209	$227,059	$128,423	1.31	$71,004	$73,074	*$71,004*
Chicago Board of Trade	$55,515	17,938	28,720	34,058	29.61	170,554	79,476	*34,058*
Chicago Mercantile Exchange	225,701	540,151	372,278	379,377	44.66	421,246	385,923	*379,377*
ICE Futures U.S	81,176	105,864	386,719	191,253	9.22	143,431	153,429	*143,431*
Minneapolis Grain Exchange	47,648	147,983	14,314	69,981	0.05	35,250	69,741	*35,250*
NADEX North American	980	.....	81,758	27,579	0.14	14,516	17,505	*14,516*

[1] National Futures Association is the only registered futures association.

[2] *See* Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, *see* 52 FR 46070, Dec. 4, 1987.

[3] 58 FR 42643, Aug. 11, 1993, and 17 CFR part 1, appendix B.

TABLE 1—SUMMARY OF DATA USED IN FEE CALCULATIONS—Continued

	Actual total costs			3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2016 Actual fee	2017 Assessed fee
	FY 2014	FY 2015	FY 2016					
New York Mercantile Exchange	225,672	118,701	242,792	195,722	14.49	172,990	159,897	*172,990*
One Chicago	31,196	289	282	10,589	0.29	6,798	28,384	*6,798*
NASDAQ					0.21	1,089		
ERIS Exchange					0.01	68		
NY LIFFE							4,909	
ELX Futures							22,378	
KCBT							186	
Subtotal	667,888	1,089,134	1,353,921	$1,036,981	100	1,036,945	994,901	*857,423*
National Futures Association	292,102	401,337	282,405	325,281			293,312	*325,281*
Total	959,990	1,490,471	1,636,326	1,362,262			$1,288,214	*1,182,704*

Note to Table 1: The 2017 Fee is the lesser of the 3-Year Average Actual Cost or the Adjusted Volume Cost. NY LIFFE, ELX, and KCBT are either Vacated or Dormant, but had direct labor costs in 2013 that produced a fee in 2016, based on the 3-Year Average.

An example of how the fee is calculated for one exchange, the Chicago Board of Trade, is set forth here:

a. Actual three-year average costs = $34,058.

b. The alternative computation is: (.5) ($34,058) + (.5) (.2961) ($1,036,981) = $170,554.

c. The fee is the lesser of a or b; in this case $34,058.

As noted above, the alternative calculation based on contracts traded is not applicable to NFA because it is not a DCM and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2014 through 2016 was $325,281. The fee to be paid by the NFA for the current fiscal year is $325,281.

II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and DCMs regulated by the Commission are as shown in the following table:

TABLE 2—SCHEDULE OF FEES

	3-Year average actual costs	3-Year average volume (%)	Adjusted volume costs	2017 Fee: lesser of actual or calculated fee
CBOE Futures	$128,423	1.31	$71,004	*$71,004*
Chicago Board of Trade	34,058	29.61	170,554	*34,058*
Chicago Mercantile Exchange	379,377	44.66	421,246	*379,377*
ICE Futures U.S	191,253	9.22	143,431	*143,431*
Minneapolis Grain Exchange	69,981	0.05	35,250	*35,250*
NADEX North American	27,579	0.14	14,516	*14,516*
New York Mercantile Exchange	195,722	14.49	172,990	*172,990*
One Chicago	10,589	0.29	6,798	*6,798*
NASDAQ		0.21	1,089	
ERIS Exchange		0.01	68	
NY LIFFE				
ELX Futures				
KCBT				
Subtotal	1,036,981	100	1,036,945	*857,423*
National Futures Association	*325,281*			*325,281*
Total	1,362,262			*1,182,704*

III. Payment Method

The Debt Collection Improvement Act (''DCIA'') requires deposits of fees owed to the government by electronic transfer of funds. *See* 31 U.S.C. 3720. For information about electronic payments, please contact Jennifer Fleming at (202) 418–5034 or *jfleming@cftc.gov,* or see the CFTC website at *www.cftc.gov,* specifically, *www.cftc.gov/cftc/cftcelectronicpayments.htm.*

Fees collected from each self-regulatory organization shall be deposited in the Treasury of the United States as miscellaneous receipts. *See* 7 U.S.C. 16a.

Issued in Washington, DC, on June 19, 2018, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2018–13511 Filed 6–22–18; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0021, Regulations Governing Bankruptcies of Commodity Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or

Commission) is announcing an opportunity for public comment on the proposed extension of the collection of certain information by the agency. Under the Paperwork Reduction Act (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection, and to allow 60 days for public comment. This notice solicits comments on the collection of information provided for by the Commission's regulations governing bankruptcies of commodity brokers.

DATES: Comments must be submitted on or before August 24, 2018.

ADDRESSES: You may submit comments, identified by OMB Control No. 3038–0021, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this matter and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 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. To avoid possible delays with mail or in-person deliveries, 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.*

FOR FURTHER INFORMATION CONTACT: Jocelyn Partridge, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5926; email: *jpartridge@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the collection of information listed below.

Title: Regulations Governing Bankruptcies of Commodity Brokers (OMB Control No. 3038–0021). This is a request for an extension of a currently approved information collection.[1]

Abstract: This collection of information involves the reporting, recordkeeping, and third party disclosure requirements set forth in the CFTC's bankruptcy regulations for commodity broker liquidations, 17 CFR part 190.[2] These regulations apply to commodity broker liquidations under Chapter 7, Subchapter IV of the Bankruptcy Code.[3]

The reporting requirements include, for example, notices to the Commission regarding the filing of petitions for bankruptcy and notices to the Commission regarding the intention to transfer open commodity contracts in a commodity broker liquidation. The recordkeeping requirements include, for example, the statements of customer accounts that a trustee appointed for the purposes of a commodity broker liquidation (Trustee) must generate and adjust as set forth in the regulations. The third party disclosure requirements include, for example, the disclosure statement that a commodity broker must provide to its customers containing information regarding the manner in which customer property is treated under part 190 of the Commission's regulations in the event of a bankruptcy and, in the event of a commodity broker liquidation, certain notices that a Trustee must provide to customers and to the persons to whom commodity contracts and specifically identifiable customer property have been or will be transferred. The information collection requirements are necessary, and will be used, to facilitate the effective, efficient, and fair conduct of liquidation proceedings for commodity brokers and to protect the interests of customers in these proceedings both directly and by facilitating the participation of the CFTC in such proceedings.

With respect to the collections of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

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.[4] 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 information collection requirements 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.

Burden Statement: The Commission notes that commodity broker liquidations occur at unpredictable and irregular intervals when particular commodity brokers become insolvent. While a commodity broker liquidation has not occurred in the past three years, the Commission took the conservative approach of maintaining the assumption

[1] There are two information collections now associated with OMB Control No. 3038–0021. The first includes the reporting, recordkeeping, and third party disclosure requirements applicable to a single respondent in a commodity broker liquidation (*e.g.,* a single commodity broker or a single trustee) within the relevant time period provided for in Commission regulations 190.02(a)(1), 190.02(a)(2), 190.02(b)(1), 190.02(b)(2), 190.02(b)(4), 190.02(c), 190.03(a)(1), 190.03(a)(2), 190.04(b) and 190.06(b). The second information collection includes third party disclosure requirements that are applicable on a regular basis to multiple respondents (*i.e.,* multiple futures commission merchants) provided for in Commission regulations 190.06(d) and 190.10(c).

[2] These include the requirements contained in Commission regulations 190.02(a)(1), 190.02(a)(2), 190.02(b)(1), 190.02(b)(2), 190.02(b)(4), 190.02(c), 190.03(a)(1), 190.03(a)(2), 190.04(b), and 190.06(b).

[3] 11 U.S.C. 761 *et seq.*

[4] 17 CFR 145.9.

contained in the previous renewal of this information collection that, on average, a commodity broker liquidation would occur every three years. The Commission generally has retained the burden hour estimates set forth in the previous information collection as there have been no interim experiences nor are there currently apparent circumstances that would warrant altering those estimates.[5] The Commission further notes, however, that the information collection burden will vary in particular commodity broker liquidations depending on the size of the commodity broker, the extent to which accounts are able to be quickly transferred, and other factors specific to the circumstances of the liquidation.

The respondent burden for this information collection is estimated to be as follows:[6]

Reporting:[7]

Estimated Number of Respondents: 1.

Estimated Annual Number of Responses per Respondent: 1.33.

Estimated Total Annual Number of Responses: 1.33.

Estimated Annual Number of Burden Hours per Respondent: 1.33.

Estimated Total Annual Burden Hours: 1.33.

Type of Respondents: Commodity brokers, Trustees, and self-regulatory organizations.

Frequency of Collection: On occasion.

Recordkeeping:[8]

Estimated Number of Respondents: 1.

Estimated Annual Number of Responses per Respondent: 26,666.67.

Estimated Total Annual Number of Responses: 26,666.67.

Estimated Annual Number of Burden Hours per Respondent: 333.33.

Estimated Total Annual Burden Hours: 333.33.

Type of Respondents: Trustees.

Frequency of Collection: Daily and on occasion.

Third Party Disclosures Applicable to a Single Respondent:[9]

Estimated Number of Respondents: 1.

Estimated Annual Number of Responses per Respondent: 6,671.32.

Estimated Total Annual Number of Responses: 6,671.32.

Estimated Annual Number of Burden Hours per Respondent: 1,034.63.

Estimated Total Annual Burden Hours: 1,034.63.

Type of Respondents: Trustees.

Frequency of Collection: On occasion.

Third Party Disclosures Applicable to a Multiple Respondents:[10]

Estimated Number of Respondents: 125.

Estimated Annual Number of Responses per Respondent: 2,000.

Estimated Total Annual Number of Responses: 250,000.

Estimated Annual Number of Burden Hours per Respondent: 100.

Estimated Total Annual Burden Hours: 12,500.

Type of Respondents: Futures commission merchants.

Frequency of Collection: On occasion.

There are no new capital or start-up or operations costs associated with this information collection, nor are there any maintenance costs associated with this information collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 20, 2018.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2018–13574 Filed 6–22–18; 8:45 am]

BILLING CODE 6351–01–P

[5] The Commission has retained the burden hour estimates for each of the applicable regulations except that the Commission no longer assigns burden hours to the discretionary notice that a Trustee may provide to customers in an involuntary commodity broker liquidation pursuant to Commission regulation 190.02(b)(3). There have been no involuntary commodity broker liquidations and none are anticipated. Accordingly, continuing to assign burden hours to this voluntary requirement would inappropriately inflate the burden hours of this information collection.

[6] Because a commodity broker liquidation is estimated to occur only once every three years, the previous information collection expressed the burden of the reporting, recordkeeping, and third party disclosure requirements in terms of the burden applicable to ''.33'' respondents in many cases. For clarity, this notice expresses such burdens in terms of those that would be imposed on *one* respondent during the three year period. While the applicable burden is expressed in a different way, as noted above, the burden hours generally remain unchanged.

[7] The reporting requirements are contained in Commission regulations 190.02(a)(1), 190.02(a)(2), and 190.06(b).

[8] The recordkeeping requirements are contained in Commission regulations 190.03(a)(1), 190.03(a)(2), and 190.04(b).

[9] These third party disclosure requirements are contained in Commission regulations 190.02(b)(1), 190.02(b)(2), 190.02(b)(4), and 190.02(c).

[10] *See* fn. 1. The Commission is setting forth a new information collection under OMB Control No. 3038–0021 to separately account for third party disclosure requirements provided for in Commission regulations 190.06(d) and 190.06(c) that are applicable on a regular basis to multiple respondents (*i.e.,* multiple futures commission merchants).

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 Defense Business Board (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The charter and contact information for the Designated Federal Officer (DFO) can be obtained at *http://www.facadatabase.gov/.* The Board provides independent advice on matters on DoD management, business processes, and governance from a private sector perspective. The Board shall be composed of no more than 25 members who must possess the following: (a) A proven track record of sound judgment and business acumen in leading or governing large, complex private sector corporations or organizations and (b) a wealth of top-level, global business experience in the areas of executive management, corporate governance, audit and finance, human resources, economics, technology, or healthcare. Members of the Board who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members of the Board who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee members. Each Board member is appointed to provide advice 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 Board-related travel and per diem, Board members serve without compensation. The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all recommendations and advice solely to the Board 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 Board. 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 Board'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 Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Board meetings. All written statements must be submitted to the Board's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: June 19, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–13489 Filed 6–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Notice of Orders Issued Under Section 3 of the Natural Gas Act During May 2018

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

	FE Docket Nos.
POWER CITY PARTNERS, L.P	18–46–NG
ENBRIDGE GAS NEW BRUNSWICK LIMITED PARTNERSHIP	18–48–NG
CONSTELLATION LNG, LLC	18–49–LNG
BIOURJA POWER, LLC	18–50–NG
IRVING OIL TERMINALS INC	18–52–CNG
BIOURJA TRADING, LLC	18–51–NG
SEMPRA GAS & POWER MARKETING, LLC	18–53–NG
MERCURIA ENERGY AMERICA INC	18–54–NG
SEMPRA LNG MARKETING, LLC	18–55–LNG
BP CANADA ENERGY MARKETING CORP	18–56–NG
STABILIS ENERGY SERVICES LLC	18–58–LNG
TOURMALINE OIL MARKETING CORP	18–57–NG
NEXEN ENERGY MARKETIN U.S.A. INC	18–60–NG
MORGAN STANLEY CAPITAL GROUP INC	18–61–NG
RICE ENERGY MARKETING LLC	17–102–NG
JUPITER RESOURCES INC	18–59–NG
FERUS NATURAL GAS FUELS CNG LLC	18–62–CNG; 16–169–NG

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during May 2018, it issued orders granting or vacating authority to import and export natural gas, to import and export liquefied natural gas (LNG), and to import and export compressed natural gas (CNG). These orders are summarized in the attached appendix and may be found on the FE web site at *https://www.energy.gov/fe/listing-doefe-authorizationsorders-issued-2018-0.*

They are also available for inspection and copying in the U.S. Department of Energy (FE–34), Division of Natural Gas Regulation, Office of Regulation and International Engagement, Office of Fossil Energy, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 19, 2018.

Amy Sweeney,

Director, Division of Natural Gas Regulation.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

4181	05/14/18	18–46–NG	Power City Partners, L.P	Order 4181 granting blanket authorization to import natural gas from Canada.
4182	05/14/18	18–48–NG	Enbridge Gas New Brunswick Limited Partnership.	Order 4182 granting blanket authority to import/export natural gas from/to Canada.
4183	05/15/18	18–49–LNG	Constellation LNG, LLC	Order 4183 granting blanket authority to import LNG from various international sources by vessel and to export LNG to Canada by vessel.
4184	05/16/18	18–50–NG	Biourja Power, LLC	Order 4184 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4185	05/21/18	18–52–CNG	Irving Oil Terminals Inc	Order 4185 granting blanket authority to import/export CNG from/to Canada by truck.
4186	05/21/18	18–51–NG	Biourja Trading, LLC	Order 4186 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4187	05/21/18	18–53–NG	Sempra Gas & Power Marketing, LLC.	Order 4187 granting blanket authority to import/export natural gas from/to Mexico.
4188	05/21/18	18–54–NG	Mercuria Energy America Inc	Order 4188 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4189	05/21/18	18–55–LNG	Sempra LNG Marketing, LLC	Order 4189 blanket authority to import LNG from various international sources by vessel.
4190	05/21/18	18–56–NG	BP Canada Energy Marketing Corp.	Order 4190 granting blanket authority to import/export natural gas from/to Canada.
4191	05/22/18	18–58–LNG	Stabilis Energy Services LLC	Order 4191 granting blanket authority to import/export LNG from/to Canada/Mexico by truck.

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

4192	05/22/18	18–57–NG	Tourmaline Oil Marketing Corp.	Order 4192 granting blanket authority to import natural gas from Canada.
4193	05/23/18	18–60–NG	Nexen Energy Marketing U.S.A. Inc.	Order 4193 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4194	05/23/18	18–61–NG	Morgan Stanley Capital Group Inc.	Order 4194 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4080–A	05/29/18	17–102–NG	Rice Energy Marketing LLC	Order 4080–A vacating blanket authority to import/export natural gas from/to Canada.
4195	05/29/18	18–59–NG	Jupiter Resources Inc	Order 4195 granting blanket authority to import natural gas from Canada.
4196	05/29/18	18–62–CNG; 16–169–NG	Ferus Natural Gas Fuels (CNG) LLC.	Order 4196 granting blanket authority to import/export CNG from/to Canada by truck and vacating prior authorization.

[FR Doc. 2018–13476 Filed 6–22–18; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–500–000]

Notice of Application: Rover Pipeline LLC

Take notice that on June 8, 2018, Rover Pipeline LLC (Rover), 1300 Main Street, Houston, Texas 77002, filed in Docket No. CP18–500–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authorization to operate a new receipt point consisting of an existing side tap on Rover's Burgettstown Lateral in Washington County, Pennsylvania (Revolution Receipt Point Project). Rover states that there are no associated construction activities or costs for the Revolution Receipt Point Project because its side tap was installed during the construction of the Burgettstown Lateral. The Revolution Receipt Point will receive up to 525,000 dekatherms per day from ETC Northeast Pipeline LLC, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Blair Lichtenwalter, Senior Director, Regulatory Affairs, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002 at (713) 989–2605 or by email at *Blair.Lictenwalter@energytransfer.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: July 9, 2018.

Dated: June 18, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13495 Filed 6–22–18; 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: EC18–63–000.

Applicants: Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, CottonWood Energy Company LP, Louisiana Generating LLC, NRG Sterlington Power LLC, NRG Cottonwood Tenant LLC, NRG Power Marketing LLC, Cleco Cajun LLC, Cleco Corporate Holdings LLC, Cleco Group LLC, Cleco Partners L.P.

Description: Response of Bayou Cove Peaking Power, LLC, et al. to May 16, 2018 Deficiency Letter.

Filed Date: 6/15/18.

Accession Number: 20180615–5249.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: EC18–104–000.

Applicants: Vectren Corporation, CenterPoint Energy.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Vectren Corporation, et al.

Filed Date: 6/15/18.

Accession Number: 20180615–5252.

Comments Due: 5 p.m. ET 7/6/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3145–011; ER10–3116–011; ER13–1544–008; ER10–3120–011; ER11–2036–011; ER16–930–005; ER10–3128–011; ER10–1800–012; ER10–3136–011; ER11–2701–013; ER10–1728–011; ER15–1582–011; ER15–1579–010; ER15–1914–012; ER16–1255–006; ER16–2201–005; ER16–1955–006; ER17–1864–004; ER17–1871–004; ER17–1909–004; ER17–544–005; ER17–306–005; ER16–1738–006; ER16–474–007; ER16–1901–006; ER16–468–006; ER15–2668–001; ER15–2679–008; ER16–2578–006; ER16–2541–005; ER15–2680–008; ER15–762–012; ER16–2224–005; ER16–890–007; ER15–760–011; ER16–1973–006; ER16–1956–006.

Applicants: AES Alamitos, LLC, AES Energy Storage, LLC, AES ES Tait, LLC, AES Huntington Beach, L.L.C., AES Laurel Mountain, LLC, AES Ohio Generation, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, 65HK 8me LLC, 67RK 8me LLC, 87RL 8me LLC, Antelope Big Sky Ranch LLC, Antelope DSR 1, LLC, Antelope DSR 2, LLC, Bayshore Solar A, LLC, Bayshore Solar B, LLC, Bayshore Solar C, LLC, Beacon Solar 1, LLC, Beacon Solar 3, LLC, Beacon Solar 4, LLC, Central Antelope Dry Ranch C LLC, Elevation Solar C LLC, FTS Master Tenant 1, LLC, Land of the Sky MT, LLC, Latigo Wind Park, LLC, North Lancaster Ranch LLC, Pioneer Wind Park I LLC, Sandstone Solar LLC, Sierra Solar Greenworks LLC, Solverde 1, LLC, Summer Solar LLC, Western Antelope Blue Sky Ranch A LLC, Western Antelope Blue Sky Ranch B LLC, Western Antelope Dry Ranch LLC.

Description: Notice of Non-Material Change in Status of AES MBR Affiliates.

Filed Date: 6/15/18.

Accession Number: 20180615–5139.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER13–102–015.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Correction of tariff record for 4/1/16 effective date—Order 1000 to be effective 4/1/2016.

Filed Date: 6/18/18.

Accession Number: 20180618–5055.

Comments Due: 5 p.m. ET 7/9/18.

Docket Numbers: ER18–1160–001.

Applicants: NRG Cottonwood Tenant LLC.

Description: Tariff Amendment: Response to Request for Additional Information to be effective 4/1/2018.

Filed Date: 6/18/18.

Accession Number: 20180618–5078.

Comments Due: 5 p.m. ET 7/9/18.

Docket Numbers: ER18–1260–001.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: Tariff Amendment: 2018–06–18_Entergy Deficiency Response re Att O Revisions For Tax Rate Change to be effective 6/1/2018.

Filed Date: 6/18/18.

Accession Number: 20180618–5079.

Comments Due: 5 p.m. ET 7/9/18.

Docket Numbers: ER18–1769–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Supplemental Filing for First Revised ISA No. 4623, Queue No. AC1–152 AC1–172 to be effective 5/10/2018.

Filed Date: 6/15/18.

Accession Number: 20180615–5167.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER18–1790–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: Powerex PTP SA 880 to be effective 9/1/2018.

Filed Date: 6/15/18.

Accession Number: 20180615–5166.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER18–1791–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Cancellation: DEF Notice of Termination (US EcoGen Polk, LLC LGIA SA–180) to be effective 8/15/2018.

Filed Date: 6/15/18.

Accession Number: 20180615–5168.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER18–1792–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: RS 560 Hurricane Filing to Comply With Docket No. ER18–1254–000 to be effective 8/15/2018.

Filed Date: 6/15/18.

Accession Number: 20180615–5246.

Comments Due: 5 p.m. ET 7/6/18.

Docket Numbers: ER18–1793–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 3202; Queue No. W3–077 to be effective 4/30/2014.

Filed Date: 6/18/18.

Accession Number: 20180618–5053.

Comments Due: 5 p.m. ET 7/9/18.

Docket Numbers: ER18–1794–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: Bentonville PSA to be effective 5/31/2018.

Filed Date: 6/18/18.

Accession Number: 20180618–5070.

Comments Due: 5 p.m. ET 7/9/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–40–000.

Applicants: ITC Midwest LLC.

Description: Application under Section 204 of the Federal Power Act of ITC Midwest LLC for authorization to issue debt securities.

Filed Date: 6/15/18.

Accession Number: 20180615–5150.

Comments Due: 5 p.m. ET 7/6/18.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM18–10–000.

Applicants: Cooperative Energy.

Description: Response of Cooperative Energy to May 18, 2018 Deficiency Letter.

Filed Date: 6/18/18.

Accession Number: 20180618–5056.

Comments Due: 5 p.m. ET 7/16/18.

Docket Numbers: QM18–13–000.

Applicants: Sunflower Electric Power Corporation, Mid-Kansas Electric Company, Inc.

Description: Application of Sunflower Electric Power Corporation, et al. to Terminate Mandatory PURPA Purchase Obligation.

Filed Date: 6/15/18.

Accession Number: 20180615–5214.

Comments Due: 5 p.m. ET 7/13/18.

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: June 18, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13497 Filed 6–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–499–000]

Notice of Application: Rover Pipeline LLC

On June 8, 2018, Rover Pipeline LLC (Rover), 1300 Main Street, Houston, Texas 77002, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), in Docket No. CP18–499–000, for authorization to construct and operate a new meter station on Rover's Majorsville Lateral in Marshall County, West Virginia (Iron Bank Meter Station Project). Rover states that the project will consist of an ultrasonic meter skid and other ancillary facilities. Rover asserts that the Iron Bank Meter Station will receive up to 500,000 dekatherms per day of natural gas from an interconnect with the gathering facilities of APP Midstream, LLC (APP). Rover estimates the cost of the project to be $6,781,644, all to be reimbursed by APP, all as more fully set forth in the request which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application should be directed to Blair Lichtenwalter, Senior Director, Regulatory Affairs, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002, at (713) 989–2605.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: July 9, 2018.

Dated: June 18, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13494 Filed 6–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10822–013]

Notice of Availability of Environmental Assessment: Town of Canton, Connecticut

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application submitted by the Town of Canton, Connecticut (applicant), for the reinstatement, amendment, and transfer of license for the Upper Collinsville Project No. 10822. The project is on the Farmington River near the village of Collinsville, Hartford County, Connecticut. The project does not occupy federal lands.

An environmental assessment (EA) has been prepared as part of staff's review of the proposal. In the application, the applicant proposes to rehabilitate the project, install a Kaplan turbine with a total installed capacity of 1,000 kilowatts, provide upstream and downstream fish and eel passage, and provide additional environmental measures, including water quality monitoring, mussel relocation, and recreation. The applicant requests the Commission to reinstate the license with a new term of 40–50 years. The EA contains Commission staff's analysis of the probable environmental impacts of the proposed action and concludes that approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

The EA is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's website at *http://www.ferc.gov* using the ''elibrary'' link. Enter the docket number (P–10822) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3372, or for TTY, (202) 502–865.

You may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the issuance date of this notice. All documents may be filed electronically via the internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. Paper filings should be mailed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–10822–013. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Dated: June 18, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13496 Filed 6–22–18; 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 Number: PR18–58–000.
Applicants: Enable Oklahoma Intrastate Transmission, LLC.
Description: Tariff filing per 284.123(b),(e)+(g): EOIT Revised SOC July 2018 to be effective 7/13/2018.
Filed Date: 6/13/18.
Accession Number: 201806135084.
Comments Due: 5 p.m. ET 7/5/18.
284.123(g) Protests Due: 5 p.m. ET 8/13/18.

Docket Number: PR18–59–000.
Applicants: Kinder Morgan Tejas Pipeline LLC.
Description: Tariff filing per 284.123(b)(2)+(: Petition for Approval of Market-Based Rates to be effective 10/1/2018.
Filed Date: 6/15/18.
Accession Number: 201806155106.
Comments/Protests Due: 5 p.m. ET 7/6/18.

Docket Numbers: RP18–897–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Revise Interruptible Pro Forma Agreements to be effective 7/16/2018.
Filed Date: 6/15/18.
Accession Number: 20180615–5018.
Comments Due: 5 p.m. ET 6/27/18.

Docket Numbers: RP18–898–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: § 4(d) Rate Filing: Revise Rate Schedules to Provide Multiple Evergreen Option to be effective 7/16/2018.
Filed Date: 6/15/18.
Accession Number: 20180615–5019.
Comments Due: 5 p.m. ET 6/27/18.

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: June 18, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–13493 Filed 6–22–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0320; FRL–9976–23–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Correction of Misreported Chemical Substances on the TSCA Inventory (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA): ''Correction of Misreported Chemical Substances on the TSCA Inventory''. This is a request to renew the approval of an existing ICR, which is currently approved through June 30, 2018. EPA did not

receive any public comments in response to the previously provided public review opportunity issued in the **Federal Register** of February 6, 2018. With this submission to OMB, EPA is providing an additional 30 days for public review and comment.

DATES: Additional comments may be submitted on or before July 25, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPPT–2017–0320, to (1) EPA online using *http://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to the OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Brandon Mullings, Environmental Assistance Division (7507–M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–4826; email address: *mullings.brandon@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket: Supporting documents, including the ICR that explains in detail the information collection activities and the related burden and cost estimates that are summarized in this document, are available in the docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

ICR status: This ICR (EPA ICR Number 1741.08, OMB Control Number 2070–0145) is currently scheduled to expire on June 30, 2018. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. Under PRA, 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable.

Abstract: This ICR pertains to the form that the chemical industry uses exclusively in submitting requests to EPA's Office of Pollution Prevention and Toxics (OPPT) for correcting misreported chemical identities of substances listed on the Inventory. Such requests pertain only to errors discovered in the original submissions to the Inventory when established in 1979.

Section 8(b) of the Toxic Substances Control Act (TSCA) requires EPA to compile and keep current an Inventory of Chemical Substances in Commerce, which is a listing of chemical substances manufactured, imported, and processed for commercial purposes in the United States. The purpose of the Inventory is to define, for the purpose of TSCA, what chemical substances exist in U.S. commerce. Since the Inventory thereby performs a regulatory function by distinguishing between existing chemicals and new chemicals, it is imperative that the Inventory be accurate. However, from time to time, EPA or respondents discover that substances have been incorrectly described by reporting companies. Reported substances have been unintentionally misidentified as a result of simple typographical errors, the misidentification of substances, or the lack of sufficient technical or analytical information to characterize fully the exact chemical substances. EPA has developed guidelines (45 FR 50544, July 29, 1980) under which incorrectly described substances listed in the Inventory can be corrected. The correction mechanism ensures the accuracy of the Inventory without imposing an unreasonable burden on the chemical industry. Without the Inventory correction mechanism, a company that submitted incorrect information would have to file a pre-manufacture notification (PMN) under TSCA section 5 to place the correct chemical substance on the Inventory whenever the previously reported substance is found to be misidentified. This would impose a much greater burden on both EPA and the submitter than the existing correction mechanism. This information collection applies to reporting and recordkeeping activities associated with the correction of misreported chemical substances found on the TSCA Inventory.

Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Form numbers: TSCA Chemical Substance Inventory Reporting Form C (EPA Form 7710–3C).

Respondents/affected entities: Manufacturers or importers of chemical substances, mixtures or categories listed on the TSCA Inventory and regulated under TSCA section 8, who had reported to EPA during the initial effort to establish the TSCA Inventory in 1979, and who need to make a correction to that submission.

Respondent's obligation to respond: Voluntary.

Total estimated number of respondents: 9.

Frequency of response: On occasion.

Total estimated burden: 39.24 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,029.72 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the estimates: There is increase of 19 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects program changes in CBI substantiation requirements, as enacted in the Frank R Lautenberg Chemical Safety Act for the 21st Century, which amended TSCA in 2016. This change is the result of a program change.

Courtney Kerwin,

Director, Collection Strategies Division.

[FR Doc. 2018–13545 Filed 6–22–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, June 28, 2018 at 2:00 p.m.

PLACE: 1050 First Street NE, Washington, DC (12th Floor).

STATUS: This meeting will be open to the Public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes for May 24, 2018
Correction and Approval of Minutes for June 7, 2018
Draft Advisory Opinion 2018–09: Clements
Disposition of Open 2014 Audits
Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2018–13765 Filed 6–21–18; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreement are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201262.

Title: Southern States Chassis Pool Agreement.

Parties: Georgia Ports Authority and South Carolina Ports Authority.

Filing Party: Paul Heylman; Saul Ewing Arnstein & Lehr.

Synopsis: The Agreement authorizes the parties to establish a chassis pool to service the member ports.

Dated: June 20, 2018.

JoAnne D. O'Bryant,

Program Analyst.

[FR Doc. 2018–13532 Filed 6–22–18; 8:45 am]

BILLING CODE 6731–AA–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 July 16, 2018.

A. *Federal Reserve Bank of Minneapolis* (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Border Bancshares, Inc., Greenbush, Minnesota;* to acquire Union Bancshares, Inc., Fargo, North Dakota, and thereby indirectly acquire Union State Bank of Fargo, Fargo, North Dakota.

Board of Governors of the Federal Reserve System, June 20, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–13553 Filed 6–22–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0020]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Coal Workers' Health Surveillance Program (CWHSP) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 12, 2018 to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Coal Workers' Health Surveillance Program (CWHSP), OMB No. 0920–0020, expires 06/30/2018—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH would like to submit an Information Collection Request (ICR) to extend the data collection instruments being utilized within the Coal Workers' Health Surveillance Program (CWHSP). This request incorporates all components of the CWHSP. Those components include: Coal Workers' X-ray Surveillance Program (CWXSP), B Reader Program, Enhanced Coal Workers' Health Surveillance Program (ECWHSP), Expanded Coal Workers' Health Surveillance Program, and National Coal Workers' Autopsy Study

(NCWAS). The CWHSP is a congressionally-mandated medical examination program for monitoring the health of coal miners and was originally established under the Federal Coal Mine Health and Safety Act of 1969 with all subsequent amendments (the Act). The Act provides the regulatory authority for the administration of the CWHSP. This Program, which operates in accordance with 42 CFR part 37, is useful in providing information for protecting the health of and also in documenting trends and patterns in the prevalence of coal workers' pneumoconiosis ('black lung' disease) among miners employed in U.S. coal mines. The total estimated annualized burden hours of 20,281 is based on the following collection instruments:

• Coal Mine Operator Plan (2.10) and Coal Contractor Plan (2.18)—Under 42 CFR part 37, every coal operator and coal contractor in the U.S. must submit a plan approximately every 4 years, providing information on how they plan to notify their miners of the opportunity to obtain the medical examination. Completion of this form with all requested information (including a roster of current employees) takes approximately 30 minutes.

• Radiographic Facility Certification Document (2.11)—X-ray facilities seeking NIOSH approval to provide miner radiographs under the CWHSP must complete an approval packet including this form which requires approximately 30 minutes for completion.

• Miner Identification Document (2.9)—Miners who elect to participate in the CWHSP must fill out this document which requires approximately 20 minutes. This document records demographic and occupational history, as well as information required under the regulations in relation to the examinations.

• Chest Radiograph Classification Form (2.8)—NIOSH utilizes a radiographic classification system developed by the International Labour Office (ILO) in the determination of pneumoconiosis among coal miners. Physicians (B Readers) fill out this form regarding their interpretations of the radiographs (each image has at least two separate interpretations, and approximately 7% of the images require additional interpretations). Based on prior practice it takes the physician approximately 3 minutes per form.

• Physician Application for Certification (2.12)—Physicians taking the B Reader examination are asked to complete this registration form which provides demographic information as well as information regarding their medical practices. It typically takes the physician about 10 minutes to complete this form.

• Guidelines for Spirometry in the ECWHSP Mobile (Internal use, no form number assigned)—Miners (both active and former) participating in the ECWHSP component of the Program are offered a spirometry test. This form is administered by a NIOSH employee (or contractor) in the ECWHSP Mobile Unit during the initial intake process and takes approximately 5 minutes to complete. This information is required to make sure that the spirometry test can be done safely and that the miner is physically capable of performing the spirometry maneuvers.

• Spirometry Facility Certification Document (2.14)—This form is analogous to the Radiographic Facility Certification Document (2.11) and records the spirometry facility equipment/staffing information. Spirometry facilities seeking NIOSH approval to provide miner spirometry testing under the CWHSP must complete an approval packet which includes this form. It is estimated that it will take approximately 30 minutes for this form to be completed at the facility.

• Respiratory Assessment Form (2.13)—This form is designed to assess respiratory symptoms and certain medical conditions and risk factors. It is estimated that it will take approximately 5 minutes for this form to be administered to the miner by an employee at the facility.

• Spirometry Results Notification Form (2.15)—This form is used to: Collect information that will allow NIOSH to identify the miner in order to provide notification of the spirometry test results; assure that the test can be done safely; record certain factors that can affect test results; provide documentation that the required components of the spirometry examination have been transmitted to NIOSH for processing; and conduct quality assurance audits and interpretation of results. It is estimated that it will take the facility approximately 20 minutes to complete this form.

• Pathologist Invoice—Under the NCWAS, the invoice submitted by the pathologist must contain a statement that the pathologist is not receiving any other compensation for the autopsy. Each participating pathologist may use their individual invoice as long as this statement is added. It is estimated that only 5 minutes is required for the pathologist to add this statement to the standard invoice that they routinely use.

• Pathologist Report—Under the NCWAS the pathologist must submit information found at autopsy, slides, blocks of tissue, and a final diagnosis indicating presence or absence of pneumoconiosis. The format of the autopsy reports is variable depending on the pathologist conducting the autopsy. Since an autopsy report is routinely completed by a pathologist, the only additional burden is the specific request for a clinical abstract of terminal illness and final diagnosis relating to pneumoconiosis. Therefore, only 5 minutes of additional burden is estimated for the pathologist's report.

• Consent, Release and History Form (2.6)—This form documents written authorization from the next-of-kin to perform an autopsy on the deceased miner. A minimum of essential information is collected regarding the deceased miner including an occupational history and a smoking history. From past experience, it is estimated that 15 minutes is required for the next-of-kin to complete this form.

The total estimated burden hours is 20,281. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Coal Mine Operator	2.10	388	1	30/60
Coal Mine Contractor	2.18	575	1	30/60
X-ray Facility Supervisor	2.11	40	1	30/60
Coal Miner	2.9	14,560	1	20/60
Coal Miner	No form	14,560	1	15/60
B Reader Physician	2.8	10	3,014	3/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Physicians taking the B Reader Examination	2.12	100	1	10/60
Spirometry Facility Supervisor	2.14	100	1	30/60
Spirometry Facility Employee	2.13	14,560	1	5/60
Spirometry Technician	2.15	14,560	1	20/60
Coal Miner	No form	14,560	1	15/60
Pathologist	Invoice—No standard form	1	1	5/60
Pathologist	Pathology Report—No standard form	1	I	5/60
Next-of-kin for deceased miner	2.6	1	1	15/60

Jeffery M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–13543 Filed 6–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0953]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—Revision—Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH).

Background and Brief Description

Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Centers for Disease Control and Prevention (CDC's) National Institute for Occupational Safety and Health (NIOSH) seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery on collections. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic

mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** on March 23, 2018 (vol. 83, No. 57, pages 12766–12768).

This is a Revision information collection request. The burden hours have decreased from the previous submission by 6,250 hours. This decrease accounts for the hours that were unused as well as the planned efforts within the Institute during the next three years. NIOSH is also planning on discontinuing 0920–0940 (expiration 3/31/2018) which accounts for service delivery data collections within NIOSH's Health Hazard Evaluation program. The current submission will account for all service delivery data collections within NIOSH.

During the past three years the information has been used by programs within NIOSH to collect feedback from customers and stakeholders. Respondents will be screened and selected from Individuals and Households, Businesses, Organizations, and/or State, Local or Tribal Government. Below we provide NIOSH's projected annualized estimate for the next three years. There is no cost to respondents other than their time. The estimated annualized burden hours for this data collection activity are 13,075.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals and Households, Businesses, Organizations	Print Surveys	50,000	1	15/60
	Focus Groups	100	1	2
	Online Surveys	1,500	1	15/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–13544 Filed 6–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice; Children's Bureau Proposed Research Priorities for Fiscal Years 2018–2020

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed priorities; request for comments.

SUMMARY: The Children's Bureau (CB) within the Administration on Children, Youth and Families (ACYF) announces the proposed priorities for research on the causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect, and solicits comments regarding the prioritization.

DATES: In order to be considered, comments must be received no later than August 24, 2018.

ADDRESSES: You may send comments, identified by the RIN or dockets number in the subject line, by email: *CBComments@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Dori Sneddon, 202–205–8024, *Dori.Sneddon@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 104(a)(4) of the Child Abuse Prevention and Treatment Act (CAPTA), as amended by the CAPTA Reauthorization Act of 2010, Public Law (Pub. L.) 111–320, requires the Secretary of the Department of Health and Human Services (HHS) to establish proposed priorities for research activities, provide an opportunity for public comment on those proposed activities, and maintain an official record of received public comment concerning the priorities. The proposed priorities are being announced for the 2-year period required by CAPTA. Because the amount of federal funds available for discretionary activities in fiscal years (FY) 2018–2020 is expected to be limited, respondents are encouraged to recommend how the proposed issues should be prioritized.

The actual solicitation of grant applications will be posted electronically each fiscal year and will be available online through *http://www.Grants.gov.* Solicitations for contracts will be announced at later dates, online at FedBizOps. No proposals, concept papers, or other forms of application should be submitted at this time.

No acknowledgement will be made of the comments submitted in response to this notice, but all comments received by the deadline will be reviewed and given thoughtful consideration in the preparation of the final funding priorities for the announcements.

I. Background

As noted above, section 104(a)(4) of CAPTA requires the Secretary to publish proposed priorities for research activities for public comment every 2 years. In response to this legislative mandate, CB has undertaken a review of the current legislative language, the results of the CAPTA-funded research since the last CAPTA announcement of research priority areas, findings from other relevant research, and input from the field. Based on this review, this notice of proposed research is being disseminated for comment. The FY 2018 President's Budget requested $32,937,267 for child abuse discretionary activities to support efforts designed to assist and enhance national, state, and local efforts to prevent, identify, and treat child abuse and neglect. The program funds projects to compile, publish, and disseminate training materials; provide technical assistance; and demonstrate and evaluate improved methods and procedures to prevent and treat child abuse and neglect. Under discretionary funds, CB will continue to fund the following clearinghouse and technical assistance activities:

- The Child Welfare Information Gateway;
- Family Resource Information, Education, and Network Development Service (FRIENDS); and
- National Child Abuse and Neglect Data System (NCANDS) technical assistance and technical support program.

In addition, the child abuse discretionary activities' account funds a number of research and demonstration

grants and contracts. For those members of the public interested in responding to this announcement, information on previous and continuing projects supported by CB are available through the following websites:

• The Child Welfare Information Gateway (*http://www.childwelfare.gov*); and

• Children's Bureau Reports/Publications (*http://www.acf.dhhs.gov/programs/cb/publications/index.htm*).

II. Proposed Child Abuse and Neglect Research Priorities for Fiscal Years 2016–2018

A. Legislative Topics

A number of research topics are suggested in the 2010 reauthorization of CAPTA, section 104 (42 U.S.C. 5105). The legislation states that the Secretary shall, in consultation with other federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research, including longitudinal research, that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of victims of abuse or neglect, with at least a portion of such research being field initiated. Suggested research includes:

• The nature and scope of child abuse and neglect;

• The causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect, including the effects of child abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed;

• Effective approaches to improving the relationship and attachment of infants and toddlers who experience child abuse or neglect with their parents or primary caregivers in circumstances where reunification is appropriate;

• Appropriate, effective, and culturally sensitive investigative, administrative, and judicial systems, including multidisciplinary, coordinated decision making procedures with respect to cases of child abuse and neglect;

• The evaluation and dissemination of best practices, including best practices to meet the needs of special populations, consistent with the goals of achieving improvements in child protective services systems of the states in accordance with CAPTA, section 106(a), Grants to States for Child Abuse and Neglect Prevention and Treatment Programs [42 U.S.C. 5106a], paragraphs (1) through (14), which include:

i. The intake, assessment, screening, and investigation of reports of child abuse and neglect;

ii. Creating and improving the use of multidisciplinary teams and interagency, intra-agency, interstate, and intrastate protocols to enhance investigation, and improving legal preparation and representation; and improving legal preparation and representation;

iii. Case management, including ongoing case monitoring and delivery of services and treatment provided to children and their families;

iv. Enhancing the general child protective system by developing, improving and implementing risk and safety assessment tools and protocols, including the use of differential response;

v. Developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;

vi. Developing, strengthening and facilitating training;

vii. Improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;

viii. Developing, facilitating the use of, and implementing research-based strategies and training protocols for individuals mandated to report child abuse or neglect;

ix. Developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life threatening conditions;

x. Developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect, including the use of differential response;

xi. Developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level;

xii. Supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plans and services as children transition between systems;

xiii. Supporting and enhancing interagency collaboration among public health agencies, agencies in the child protective service system, and agencies carrying out private community-based programs

a. To provide child abuse and neglect prevention and treatment services (including linkages with education systems) and the use of differential response; and

b. To address the health needs, including mental health needs, of children identified as victims of abuse or neglect, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports; or

xiv. Developing and implementing procedures for collaboration among child protective services, domestic violence services, and other agencies in

a. Investigations, interventions, and the delivery of services and treatment provided to children and families, including the use of differential response, where appropriate; and

b. The provision of services that assist children exposed to domestic violence, and that also support the caregiving role of their non-abusing parents.

• Effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plans and services as children transition between systems;

• Effective practices and programs to improve activities such as the identification, screening, medical diagnosis, forensic diagnosis, health evaluations, and services, including activities to promote collaboration between—

i. The child protective service system; and

ii. (I) The medical community, including providers of mental health and developmental disability services; and

iii. (II) Providers of early childhood intervention services and special education for children who have been victims of child abuse or neglect;

• An evaluation of the redundancies and gaps in services in the field of child abuse and neglect prevention in order to make better use of resources;

• Effective collaborations, between the child protective system and domestic violence service providers, that provide for the safety of children exposed to domestic violence and their non-abusing parents that improve the investigations, interventions, delivery of

services, and treatments provided for such children and families;

• The nature, scope, and practice of voluntary relinquishment for foster care or State guardianship of low-income children who need health services, including mental health services.

• The impact of child abuse and neglect on the incidence and progression of disabilities;

• The nature and scope of effective practices relating to differential response, including future analysis of the following:

i. What is the underlying hypothesis about the need to engage a parent and/or family in order to achieve specific outcomes in Child Protective Services (CPS)? Which specific outcomes need to be considered?

ii. Given that ''engagement'' may vary according to the eyes of the beholder, can specific aspects of engagement be measured with greater consistency and replication, particularly between the two groups who are part of the relationship?

iii. How should engagement be defined in future studies?

iv. CPS systems, in general, may be providing training to their caseworkers, regardless of pathway, to help them better relate to families and caregivers. If Alternative Response (AR) and Investigative Response (IR) caseworkers receive the same training and use similar engagement practices, should one still expect differences in family or caseworker perceptions of engagement?

v. Are there specific micro-practices that should be examined in more depth to determine if they make a difference for parents and families? As examples: Does setting an appointment to visit a family make a difference in engaging a family in early stages of relationship building? Does solution-focused casework result in parent willingness to engage with caseworkers?

vi. Should all low-risk families receive AR?

vii. Should the threshold for providing a family with AR be raised?

viii. Should CPS caseworkers also have the discretion to reassign IR families to AR?

ix. If families are encouraged to build relationships with their CPS caseworkers and are encouraged to contact them in the future, should re-referral still be considered a proxy for lack of safety?

• Child abuse and neglect issues facing Indians, Alaska Natives, and Native Hawaiians, including providing recommendations for improving the collection of child abuse and neglect data for Indian tribes and Native Hawaiian communities; or

• The information on the national incidence of child abuse and neglect specified in CAPTA, section 104(a) specified in clauses (i) through (x) of paragraph (1)(O).

B. Other Topics

Prevention Practices: CB is interested in research that builds on the existing body of knowledge of prevention practices, in particular primary prevention. This includes research to measure the efficacy and effectiveness of strategies to serve families across a spectrum of risk for child maltreatment, and strategies that aim to enhance the capacity of communities to address the physical, social, and emotional well-being of families before the occurrence of child abuse or neglect. In addition, CB is interested in research that examines innovative techniques for the assessment and detection of the risk of incidences of child abuse and neglect, including techniques for the detection of household opioid and other substance misuse, and interventions based on such risk detection which mitigate or eliminate the incidence of abuse and neglect.

CB has supported a number of research and demonstration projects to generate knowledge about effective early prevention strategies and interventions. Over 5 years, from 2009–2014, CB funded the Rigorous Evaluation of Existing Child Abuse and Neglect Prevention Programs grant programs. Through a competitive process, grants were made to conduct randomized controlled trials (RCTs) of four well-established, community-based child abuse and neglect prevention programs located in three regions across the U.S., garnering information on the effectiveness of interventions to increase child, parent, and family safety and well-being. Additionally, CB has funded research and demonstration grants to support initiatives to prevent maltreatment and increase the well-being of children and youth, including: Infrastructure-building grants between child welfare agencies, early education, and schools; supportive housing models for families; and interventions to address child trafficking. While this work is contributing to the body of knowledge about the type and range of early intervention strategies to prevent the occurrence of maltreatment, much more can and must be learned at the individual and population level to build the protective capabilities of families and communities.

Research interests may include: The development and demonstration of research methodologies that allow for valid and reliable measurement of primary prevention activities and assessment of risk for child abuse and neglect at the individual, community, and population level; the innovative use of data, including administrative and secondary data, to inform our understanding of the implementation and outcomes of primary prevention strategies; and integrating child abuse and neglect research into prevention practices and techniques for the assessment and detection of risk for child abuse and neglect.

Child Protection Systems: CB is interested in research that examines effective state-level strategies employed to improve child protection systems. Questions may include: The degree to which changes in CPS systems' policy and practice are tied to better outcomes; determining the variations in local agencies that result in different outcomes; and whether or not child safety and well-being are improved by privatizing part or all of the child welfare system. Other research interests may include: Effective responses for children at risk of being harmed; barriers to consistency in CPS operations, such as differences in the level of resources; lack of clear laws and policy and the competing desire for local autonomy in government functions; the means by which CPS agencies try to understand the standards of the community they serve through outreach to additional panels and review teams (fatality review team, citizen review panels, external case reviews); and collaborations between CPS and other agencies.

Services: CB is interested in research focused on the assessment of service needs and services provided. Research questions may include: What services are children and families receiving; to what degree are services responsive to the needs of the target population; and what are the outcomes that result from various services. Other research may focus on case planning and intervention, such as examining the development and implementation of comprehensive family assessment, safety planning, engaging families and monitoring risk assessment over the life of CPS cases, and increasing knowledge of parent and child engaging in the case planning process. In addition, topics of interest include services needs of families and children who are impacted by substance use disorders, trafficking, and inadequate housing including homelessness.

The findings from the most recent Child and Family Service Reviews (CFSR) identify strengths and needs within state programs, as well as areas where technical assistance can lead to

program improvements. CB encourages research on underlying issues in practice areas contributing to poor performance on CFSR outcomes. State performance on identifying, assessing, and addressing children's mental needs, in particular, was found as an area needing improvement in the CFSRs. Areas of interest for research may include examining CPS procedures for identifying, assessing, and responding to children's mental health challenges, as well as the prevalence, type, and severity of mental health needs among children identified in state child welfare systems. In addition, findings from the National Survey of Child and Adolescent Well-Being show that high rates of mental health needs among parents, coupled with low rates of identification, assessment, and referral, is a serious issue. CB is interested in research that examines support services to strengthen families, including mental health services to parents and children.

Secondary Data Analysis: CB encourages the utilization of existing data sources, particularly the use of service data through the National Child Abuse and Neglect Data System (NCANDS) and other child welfare data available through the National Data Archive on Child Abuse and Neglect. CB is interested in secondary data analyses using NCANDS, focusing on service utilization, recurrence, and perpetrators.

Service utilization: While not all states provide complete service data to NCANDS, for those states that do provide complete service data, the following areas could be examined: The services that are provided to Substance Exposed Newborns and their families; services to victims of human trafficking; differences in service patterns that exist between child victims who remain in their homes and those who are removed; and the variations in service patterns within states according to county characteristics.

Perpetrators: CB continues to be interested in perpetrators, with the notion that understanding who this group is and what their characteristics are can help to inform more effective intervention and prevention efforts. According to the most recent analysis of NCANDS data, female caregivers between the ages of 18–30 are most often identified as maltreators of children ages birth–3. Further exploration of these phenomena is necessary to identify subgroups within this population of female caregivers, to identify services that mitigate risk to infants and toddlers of young adult parents, and to develop targeted prevention strategies.

Field Initiated Research on Child Abuse and Neglect

The generation of new knowledge for understanding critical issues in child abuse and neglect improves prevention, identification, assessment, and treatment. Research areas to be addressed may be those that will expand the current knowledge base, build on prior research, contribute to practice enhancements, inform policy, improve science, and provide insights into new approaches to the assessment, prevention, intervention, and treatment of child maltreatment (*i.e.,* physical abuse, sexual abuse, emotional maltreatment, or neglect) on any of the topics listed in (A) Legislative Topics, (B) Other Topics, above, or any other child maltreatment topic. In addition to the topics cited above, practitioners and researchers are encouraged to propose other relevant subjects for research topics in child abuse and neglect.

Dated: June 19, 2018.

Jerry Milner,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2018–13526 Filed 6–22–18; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Mutant IDH1 Inhibitors Useful for Treating Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: National Center for Advancing Translational Sciences, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the Patent Applications listed in the Summary Information section of this notice to Apexx Oncology, Inc., located in New York, NY.

DATES: Only written comments and/or applications for a license which are received by the National Center for Advancing Translational Sciences on or before July 10, 2018 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive license should be directed to: Sury Vepa, Ph.D., J.D., Senior Licensing and Patenting Manager, National Center for Advancing Translational Sciences, NIH, 9800 Medical Center Drive, Rockville, MD 20850, Phone: 301–217–9197, Fax: 301–217–5736, or email *sury.vepa@nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. International Application No. PCT/US15/067406 filed on 12/22/2015 which is entitled ''Mutant IDH1 Inhibitors Useful for Treating Cancer'' (HHS Ref. No: E–243–2014/0–PCT–02), and

2. U.S. Provisional Application No. 62/353298 filed on 06/22/2016 which is entitled ''Mutant IDH1 Inhibitors Useful for Treating Cancer'' (HHS Ref. No. E–189–2016/0–US–01).

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America and the University of North Carolina at Chapel Hill.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensed Patent Rights for the following: ''Therapeutics for cancers in humans which result from or characterized by the presence of mutant IDH1.''

The inventions relate to a series of novel compounds that potently and selectively inhibit mIDH1. These compounds reduce 2–HG levels in cell lines *in vitro* as well as in human cancer cells grown in mouse xenografts *in vivo.* These compounds show greater than 250-fold selectivity for the mutant enzyme over the wild-type, show favorable *in vitro* stability (in mouse, rat, dog and human hepatocyte exposure studies), are AMES negative, and exhibit no significant metabolic CYP liabilities. These compounds possess very favorable *in vivo* rodent pharmacokinetics and bioavailability and are well tolerated in rodents, even when dosed at high levels.

Thus, the compounds of the subject inventions can be used individually or in combination to develop new therapies to treat diseases which result from mutant IDH1 activity. The diseases caused by mutant IDH1 activity include cancer (*e.g.,* acute myeloid leukemia, glioma, cholangiocarcinoma and potentially other solid tumors) and selected rare diseases, such as Ollier Disease.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless

within fifteen (15) days from the date of this published notice, the National Center for Advancing Translational Sciences receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Exclusive Patent License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: June 11, 2018.

Christopher P. Austin,

Director, Office of the Director, National Center for Advancing Translational Sciences.

[FR Doc. 2018–13486 Filed 6–22–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0282]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0096

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0096, Report of Oil or Hazardous Substance Discharge and Report of Suspicious Maritime Activity; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 24, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0282] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2018–0282], and must be received by August 24, 2018.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Report of Oil or Hazardous Substance Discharge and Report of Suspicious Maritime Activity.

OMB Control Number: 1625–0096.

*Summary:*Any discharge of oil or a hazardous substance must be reported to the National Response Center (NRC) so that the pre-designated on-scene coordinator can be informed and appropriate spill mitigation action carried out. The NRC also receives suspicious activity reports from the public and disseminates this information to appropriate entities.

Need: Titles 33 CFR 153.203, 40 CFR 263.30 and 264.56, and 49 CFR 171.15 mandate that the NRC be the central place for the public to report all pollution spills. Title 33 CFR 101.305 mandates that owners or operators of those vessels or facilities required to have security plans, report activities that may result in a Transportation Security Incident (TSI) or breaches of security to the NRC. Voluntary reports are also accepted.

Forms: None.

Respondents: Persons-in-charge of a vessel or onshore/offshore facility; owners or operators of vessels or facilities required to have security plans; and the public.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 3,144 hours to 1,980 hours a year due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 15, 2018.

James D. Roppel,

Acting Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2018–13525 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0136]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625—NEW

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for the following collection of information: 1625—NEW, Coast Guard Art Program Membership Application Form. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 24, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0136] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2018–0136], and must be received by August 24, 2018.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Coast Guard Art Program Membership Application Form.

OMB Control Number: 1625—NEW.

Summary: This collection of information contains the application form for membership and samples of artwork for those wishing to become Coast Guard Art Program (COGAP) member artists.

Need: The application and samples of artwork are needed to determine if the applicant has the necessary artistic skills and ability to become a contributing member of the COGAP. The authority to collect this information is contained in 5 U.S.C. 301, Departmental regulations; 14 U.S.C. 93(a)(6), Commandant general powers; and 44 U.S.C. 3101, Records management by agency heads.

Forms: CG–5700, Membership Application Form.

Respondents: Artist interested in becoming contributing member of the Coast Guard Art Program.

Frequency: Annually.

Hour Burden Estimate: This is a new collection. The estimated burden is 10 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 19, 2018.

James D. Roppel,

Acting Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2018–13522 Filed 6–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2018–N090; FXGO1664091HCC0–FF09D00000–189]

Hunting and Shooting Sports Conservation Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Hunting and Shooting Sports Conservation Council (HSSCC), in accordance with the Federal Advisory Committee Act. The HSSCC's purpose is to provide recommendations to the Federal Government, through the Secretary of the Interior and the Secretary of Agriculture, regarding policies and endeavors that benefit wildlife

resources; encourage partnership among the public; sporting conservation organizations; and Federal, state, tribal, and territorial governments; and benefit recreational hunting and recreational shooting sports.

DATES: *Meeting:* Wednesday, July 11, 2018, from 10:30 a.m. to 5 p.m. The meeting is open to the public. *Deadline for Attendance or Participation:* For security purposes, signup or request for accommodations is required no later than July 3, 2018. For more information, contact the HSSCC Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). For participation during the meeting, see Public Input under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: *Meeting Location:* Department of the Interior, South Penthouse, 1849 C Street NW, Washington, DC 20240.

Comment Submission: You may submit written comments in advance of the meeting by emailing them to the HSSCC Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Designated Federal Officer, HSSCC, by telephone at (703) 358–2336, or by email at *doug_hobbs@fws.gov*. The U.S. Fish and Wildlife Service is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpretation service, closed captioning, or other accommodations to Douglas Hobbs by close of business on Friday, July 3, 2018. If you are hearing impaired or speech impaired, contact Douglas Hobbs via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Hunting and Shooting Sports Conservation Council (HSSCC). The HSSCC was established to further the provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd), other Acts applicable to specific bureaus, and Executive Order 13443 (August 17, 2007), ''Facilitation of Hunting Heritage and Wildlife Conservation.'' The council's membership is composed of 18 discretionary members. The HSSCC's purpose is to provide recommendations to the Federal Government, through the Secretary of the Interior and the Secretary of Agriculture, regarding policies and endeavors that (a) benefit wildlife resources; (b) encourage partnership among the public; sporting conservation organizations; Federal, state, tribal, and territorial governments; and (c) benefit recreational hunting and recreational shooting sports.

Meeting Agenda

- Overview and update on the implementation of outdoor recreation Secretarial Orders.
- Update from Department of the Interior and Department of Agriculture and bureaus from both agencies regarding efforts to create or expand hunting and recreational shooting opportunities on Federal lands.
- Overview of Federal programs that benefit species and habitat conservation and outdoor recreation opportunities, particularly hunting and the shooting sports.
- Public comment period.

The final agenda and other related meeting information will be posted on the HSSCC website at *http://www.fws.gov/hsscc.* The Designated Federal Officer will maintain detailed minutes of the meeting, which will be posted for public inspection within 90 days after the meeting at *http://www.fws.gov/hsscc.*

Public Input

If you wish to:	You must contact the Council Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) no later than:
Attend the meeting	July 3, 2018.
Submit written information before the meeting for the Council to consider during the meeting.	July 3, 2018.
Give an oral presentation during the public comment period	July 3, 2018.

Submitting Written Information

Interested members of the public may submit relevant information for the Council to consider during the public meeting. Written statements must be received by the date in Public Input, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Designated Federal Officer in the following formats: One hard copy with original signature, and/or one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Depending on the number of people wishing to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties must contact the Council Designated Federal Officer, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Designated Federal Officer up to 30 days following the meeting. Requests to address the Council during the public comment period will be accommodated in the order the requests are received.

Availability of Public Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: Federal Advisory Committee Act (5 U.S.C. Appendix 2).

Dated: May 7, 2018.

Greg Sheehan,

Principal Deputy Director.

[FR Doc. 2018–13563 Filed 6–22–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Exxon Valdez Oil Spill Public Advisory Committee; Call for Nominations

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The *Exxon Valdez* Oil Spill Trustee Council is soliciting nominations for the Public Advisory Committee, which advises the Trustee Council on decisions related to the planning, evaluation, funds allocation, and conduct of injury assessment and restoration activities related to the T/V *Exxon Valdez* oil spill of March 1989. Public Advisory Committee members will be selected and appointed by the Secretary of the Interior to serve a 2-year term.

DATES: All nominations must be received by August 9, 2018.

ADDRESSES: A complete nomination package should be submitted by hard copy or via email to Elise Hsieh, Executive Director, *Exxon Valdez* Oil Spill Trustee Council, 4230 University Drive, Suite 220, Anchorage, Alaska, 99508–4650, or at *elise.hsieh@alaska.gov.*

FOR FURTHER INFORMATION CONTACT: Questions should be directed to Cherri Womac, *Exxon Valdez* Oil Spill Trustee Council, 4230 University Drive, Suite 220, Anchorage, Alaska, 99508–4650, (907) 278–8012 or (800) 478–7745 or via email at *cherri.womac@alaska.gov;* or Dr. Philip Johnson, Designated Federal Officer, U.S. Department of the Interior, Office of Environmental Policy and Compliance, 1689 C Street, Suite 119, Anchorage, Alaska, 99501–5126, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The *Exxon Valdez* Oil Spill Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The Public Advisory Committee was created to advise the Trustee Council on matters relating to decisions on injury assessment, restoration activities, or other use of natural resource damage recoveries obtained by the government.

The Trustee Council consists of representatives of the U.S. Department of the Interior, U.S. Department of Agriculture, National Oceanic and Atmospheric Administration, Alaska Department of Fish and Game, Alaska Department of Environmental Conservation, and Alaska Department of Law.

The Public Advisory Committee consists of 10 members to reflect balanced representation from each of the following principal interests: Aquaculture/mariculture, commercial tourism, conservation/environmental, recreation, subsistence use, commercial fishing, native landownership, sport hunting/fishing, science/technology, and public-at-large.

Nominations for membership may be submitted by any source.

Nominations should include a résumé providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Public Advisory Committee and permit the Department of the Interior to contact a potential member.

Individuals who are federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your nomination/comment, you should be aware that your entire nomination/comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your nomination/comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 2

Philip Johnson,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2018–13562 Filed 6–22–18; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO32000.L19900000.PO0000; OMB Control Number 1004–0025]

Agency Information Collection Activities; Mineral Surveys, Mineral Patent Applications, Adverse Claims, Protests, and Contests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 24, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman; or by email to *jesonnem@blm.gov.* Please reference OMB Control Number 1004–0025 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elaine Guenaga by email at *eguenaga@blm.gov,* or by telephone at (202) 912–7345.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, the BLM provides 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 BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The General Mining Law (30 U.S.C. 29, 30, and 39) authorizes a holder of an unpatented claim for hardrock minerals to apply for fee title (patent) to the Federal land (as well as minerals) embraced in the claim. Since 1994, a rider on the annual appropriation bill for the Department of the Interior has prevented the BLM from processing mineral patent applications unless the applications were grandfathered under the initial legislation. While grandfathered applications are rare at present, the approval to collect the information continues to be necessary because of the possibility that the moratorium will be lifted.

Title of Collection: Mineral Surveys, Mineral Patent Applications, Adverse Claims, Protests, and Contests.

OMB Control Number: 1004–0025.

Form Numbers: 3860–2 and 3860–5.

Type of Review: Extension of currently approved collection.

Respondents/Affected Public: Owners of unpatented mining claims and mill sites upon the public lands, and of reserved mineral lands of the United States, National Forests, and National Parks.

Total Estimated Number of Annual Respondents: 10.

Total Estimated Number of Annual Responses: 10.

Estimated Completion Time per Response: Varies from 3 to 100 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 559.

Respondent's Obligation: Required to obtain or maintain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $174,375.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2018–13582 Filed 6–22–18; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO35000.L14400000.PN0000; OMB Control Number 1004–0153]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Conveyance of Federally-Owned Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 25, 2018.

ADDRESSES: Send written comments on this Information Collection Request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the U.S. Department of the Interior, BLM, 1849 C Street NW, Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman; or by email to *jesonnem@blm.gov.* Please reference OMB Control Number 1004–0153 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Chantel Jordan by email at *cmjordan@blm.gov,* or by telephone at 202–912–7514. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, the BLM provides 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on January 16, 2018 (83 FR 2183). The comment period closed on March 19, 2018. On April 11, 2018, 23 days after the comment period closed, the BLM received two comments via email. The comments referred specifically to the Bears Ears National Monument.

Except for the mention of the OMB control number in the title of each comment, the comments did not mention the information collection, and the BLM has taken no action to revise the information collection in response to the comments. The BLM Information Collection Clearance Officer has forwarded the comments to the appropriate BLM staff for consideration.

The BLM is again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Section 209(b) of the Federal Land Policy and Management Act (43 U.S.C. 1719) authorizes the Secretary of the Interior to convey Federally-owned mineral interests to non-Federal owners of the surface estate. The respondents in this information collection are non-Federal owners of surface estates who apply for underlying Federally-owned mineral interests. This information collection enables the BLM to determine if the applicants are eligible to receive title to the Federally-owned mineral interests beneath their lands. Regulations at 43 CFR part 2720

establish guidelines and procedures for the processing of these applications.

Title of Collection: Conveyance of Federally-Owned Mineral Interests.

OMB Control Number: 1004–0153.

Form Numbers: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Owners of surface estates (*i.e.,* individuals, businesses, or state, local, or tribal governments) that want to obtain underlying Federally-owned mineral estates.

Total Estimated Number of Annual Respondents: 5.

Total Estimated Number of Annual Responses: 5.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 5.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $250.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2018–13579 Filed 6–22–18; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1383 (Final)]

Stainless Steel Flanges From China; Supplemental Schedule for the Subject Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Celia Feldpausch (202–205–2387), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective January 23, 2018, the Commission established a general schedule for the conduct of the final phase of its investigations on stainless steel flanges from China and India,[1] following a preliminary determination by the U.S. Department of Commerce (''Commerce'') that imports of the subject stainless steel flanges were subsidized by the government of China. Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 7, 2018 (83 FR 5459). The hearing was held in Washington, DC, on April 10, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel. To date, Commerce has issued final affirmative determinations with respect to the subject stainless steel flanges from China.[2] [3] The Commission subsequently issued its final affirmative determination regarding subsidized imports from China on May 29, 2018 (83 FR 25714, June 4, 2018). The Commission currently is issuing a supplemental schedule for its antidumping duty investigation on imports of stainless steel flanges from China.

This supplemental schedule is as follows: The deadline for filing supplemental party comments on Commerce's final antidumping duty determination regarding China is June 25, 2018. Supplemental party comments may address only Commerce's final antidumping duty determination regarding imports of certain stainless steel flanges from China. These supplemental final comments may not contain new factual information and may not exceed five (5) pages in length. The supplemental staff report in this antidumping duty investigation will be placed in the nonpublic record and a public version will be issued thereafter.

For further information concerning these investigations, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 20, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–13557 Filed 6–22–18; 8:45 am]

BILLING CODE 7020–02–P

[1] *Stainless Steel Flanges from China and India: Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations,* 83 FR 5459, February 7, 2018.

[2] *Countervailing Duty Investigation of Stainless Steel Flanges From the People's Republic of China: Final Affirmative Determination,* 83 FR 15790, April 12, 2018.

[3] *Stainless Steel Flanges From the People's Republic of China: Final Affirmative Determination of Sales at Less than Fair Value,* 83 FR 26959, June 11, 2018.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–860 (Third Review)]

Tin- and Chromium-Coated Steel Sheet From Japan; Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on tin- and chromium-coated steel sheet from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on May 1, 2017 (82 FR 20378) and determined on August 4, 2017 that it would conduct a full review (82 FR 40168, August 24, 2017). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 20, 2017 (82 FR 49661). The hearing was held in Washington, DC, on February 27, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on June 19, 2018. The views of the Commission are contained in USITC Publication 4795 (June 2018), entitled *Tin- and Chromium-Coated Steel Sheet from Japan: Investigation No. 731–TA–860 (Third Review).*

By order of the Commission.

Issued: June 19, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–13504 Filed 6–22–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Decision and Order: Mohammed Asgar, M.D.

On March 29, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA), issued an Order to Show Cause to Mohammed Asgar, M.D. (hereinafter, Respondent), of Gary, Indiana.[1] GX 6 (Order to Show Cause), at 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration as a practitioner, on the ground that the U.S. Department of Health and Human Services, Office of Inspector General (hereinafter, HHS OIG) notified Respondent of his ''mandatory exclusion from participation in all Federal health care programs for a minimum period of five years pursuant to 42 U.S.C. 1320a–7(a).'' *Id.* at 2 (citing 21 U.S.C. 824(a)(5)). The Show Cause Order also proposed the denial of any pending application by Respondent to modify or renew his registration. *Id.* at 1.

As for the Agency's jurisdiction, the Show Cause Order alleged that Respondent holds DEA Certificate of Registration No. FA3926055, which authorizes him to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 600 Grant Street, Gary, Indiana 46402. *Id.* The Show Cause Order alleged that this registration expires on June 30, 2019. GX 6, at 2.

As to the substantive ground for the proceeding, the Show Cause Order specifically alleged that Respondent was ''notified by . . . [the HHS OIG] of . . . [his] mandatory exclusion from participation in all Federal health care programs for a minimum period of five years pursuant to 42 U.S.C. 1320a–7(a).'' GX 6, at 2. It asserted that, ''[m]andatory exclusion from Medicare is an independent ground for revoking a DEA registration pursuant to 21 U.S.C. 824(a)(5).'' *Id.* The Show Cause Order further asserted that ''although your conviction was unrelated to your handling of controlled substances, DEA has nevertheless found that the underlying conviction forming the basis for a registrant's exclusion from participating in federal health care programs need not involve controlled substances for revocation under 21 U.S.C. 824(a)(5)'' to be warranted. *Id.*

The Show Cause Order notified Respondent of his right to request a hearing on the allegations, or to submit a written statement in lieu of a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of his right to submit a corrective action plan under 21 U.S.C. 824(c)(2)(C). *Id.* at 3.

By letter dated April 27, 2017, Respondent's counsel acknowledged service of the Show Cause Order on April 4, 2017, waived Respondent's right to a hearing, and stated that he was filing Respondent's written response to the Show Cause Order. GX 7 (Written Statement), at 1. Attached to the Written Statement are the Show Cause Order, 22 letters ''submitted voluntarily by patients and colleagues'' of Respondent, the transcript of Respondent's Sentencing Hearing, and the Government's Sentencing Memorandum concerning Respondent. *Id.* at 2.

On October 13, 2017, DEA submitted a Request for Final Agency Action (RFAA) including an evidentiary record to support the Show Cause Order's allegations and Respondent's Written Statement and attachments.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. FA3926055, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 600 Grant Street, Gary, Indiana 46402. GX 1 (copy of registration); GX 2 (Certification of Registration Status), at 1. This registration expires on June 30, 2019. GX 1; GX 2, at 1.

The Nature and Scope of Respondent's Criminality

Respondent's criminal conduct began in Chicago in or about 2005. GX 3 (Plea Agreement, *United States* v. *Asgar,* No. 12 CR 491–10 (N.D. Ill. Dec. 18, 2014) (hereinafter, Plea Agreement)), at 2. At this time, Respondent and another medical doctor, Dr. Farzana Begum, ''conspired with each other to knowingly and willfully refer Medicare beneficiaries to Grand Home Health for the provision of home health care services in exchange for illegal cash kickback payments.'' *Id.* at 2–3. Each Medicare patient that the doctors referred resulted in a cash payment of $400 to Dr. Begum. *Id.* at 3. According to the Plea Agreement, Respondent ''knew that it was illegal to solicit and receive kickbacks . . . in exchange for . . . referrals of Medicare patients.'' *Id.* ''From in or about January 2006 through May 2008,'' Dr. Begum received about ''$141,100 in kickbacks in exchange for [Respondent's] referral of Medicare beneficiaries to Grand Home Health.'' *Id.*

The relationship between Respondent and Dr. Begum ended in approximately May 2008. *Id.* As a result, Respondent ended the arrangement under which Dr. Begum received cash kickbacks in exchange for Respondent's Medicare patient referrals. *Id.*

About six months later, however, the cash kickback payments resumed. This time, Respondent received cash kickbacks in exchange for his referral of Medicare patients to Grand Home Health. *Id.* On or about February 9, 2011, for example, Respondent received $1,500 in cash for his referral of three patients to Grand Home Health ''for the furnishing of home health care services for which payment may be made in whole and in part under Medicare.'' *Id.* at 3–4. For the two-year period between about February 2009 and February 2011, Respondent received about $15,900 in exchange for his referral of Medicare beneficiaries to Grand Home Health. *Id.* at 4.

By May 2011, the Government was investigating the conspiracy. *Id.* On or about May 3, 2011, Respondent met with an individual who was cooperating with the investigation and recording the meeting. *Id.* During the meeting, Respondent received about $1,500 in exchange for the referral of three Medicare patients to Grand Home Health. *Id.*

At another meeting that was recorded by a different individual, Respondent urged the individual to ''deny right away'' if anyone raised the kickback conspiracy. *Id.* Respondent said, ''So

[1] The Show Cause Order caption also listed an address in Posen, Illinois for Respondent.

that's the story, okay?'' as he apparently sought to confirm that the individual would call such a claim a lie and say ''nothing . . . happened.'' *Id.; see also* GX 7 (Government's Sentencing Memorandum, *United States* v. *Asgar,* No.–12 CR 491–10 (N.D. Ill June 7, 2016) (hereinafter, Government Sentencing Memo), at 2–3 (After law enforcement discovered the Grand Home Health Care scheme, Asgar was recorded cautioning the owner of Grand Home Health Care about keeping records of the kickback payments, probing for information related to law enforcement's discovery of the scheme, and assuring the owner that, ''I have to be a little careful now, listen when you're cleared, I will start [referring patients], ok?'').

In total, from about January 1, 2006 through March 31, 2011, Medicare paid about $201,635 for claims submitted for home health services provided to the Medicare patients that Respondent referred to Grand Home Health in exchange for illegal kickbacks. GX 3, at 5. From about January 1, 2006 through May 31, 2008, Medicare paid about $1,002,728 for claims submitted for home health services provided to the Medicare beneficiaries that Dr. Begum referred to Grand Home Health in exchange for illegal kickbacks. *Id.* Thus, ''Grand Home Health earned approximately $317,952 in net proceeds from these illegally referred patients.'' *Id.* According to the Plea Agreement, Respondent acknowledged these facts. *Id.*

In addition to the above, beginning in or about 2008, Respondent agreed to refer Medicare beneficiaries to ''Company A'' for home health care services in exchange for illegal cash kickbacks from ''Individual A.'' *Id.* at 6. Pursuant to this conspiracy, Respondent typically received about $500 per patient referral. *Id.* In total, Respondent solicited and received about $74,000 in cash kickbacks in exchange for his referral of Medicare patients to Company A between about 2008 and August 2011. *Id.* Medicare paid about $1,725,762 for claims submitted by Company A for home health services provided to the Medicare patients whom Respondent referred in exchange for illegal kickbacks. *Id.* Company A received about $146,689 in net proceeds from the patients Respondent illegally referred. *Id.* According to the Plea Agreement, Respondent acknowledged the amounts Medicare paid to Company A during this phase of the illegal cash kickback conspiracy in which he participated. *Id.*

The Plea Agreement: On December 18, 2014, Respondent, Respondent's attorney, the United States Attorney for the Northern District of Illinois, and an Assistant U.S. Attorney signed a Plea Agreement. GX 3, at 22. Respondent agreed to plead guilty to ''conspiracy to commit an offense against the United States, namely, conspiring to solicit and receive kickbacks, in violation of Title 42, United States Code, Section 1320a–7b(b)(1)(A), all in violation of Title 18, United States Code, Section 371.'' *Id.* at 1. In sum, Respondent's criminality consisted of a multi-year conspiracy involving more than $2.9 million of Medicare payments to two home health care companies and the netting of hundreds of thousands of dollars in kickbacks by doctors involved in this conspiracy. GX 3, at 2–6.

According to the Plea Agreement, Respondent ''has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct.'' *Id.* at 9. Moreover, the Plea Agreement includes language giving Respondent credit for acceptance of responsibility pursuant to the United States Sentencing Guidelines, § 3E1.1(b). *Id.* at 10. This provision of the Plea Agreement provides that ''if the Court determines that the defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.'' *Id.* Further, in the Plea Agreement, Respondent agreed to full and truthful cooperation ''in any matter in which he is called upon to cooperate'' by the Chicago U.S. Attorney's Office. *Id.* at 12. The expected cooperation included ''providing complete and truthful information in any investigation and pre-trial preparation and complete and truthful testimony in any criminal, civil, or administrative proceeding.'' *Id.*

At some point, Respondent appeared before the United States District Court and pled guilty to the charge. The District Court accepted his plea.

The Government Sentencing Memo: Respondent's counsel attached the Government's Sentencing Memo to his Written Statement. According to the Government's Sentencing Memo, Respondent ''took advantage of the faith and commitment of his patients in order to extract benefits for himself to which he knew he was not entitled. In doing so, he abused his position as their trusted doctor for his own pecuniary advantage, knowing that it was wrong all along.'' GX 7, Government's Sentencing Memo, at 6. According to the Government's Sentencing Memo, Respondent treated his ''patients as a commodity to be traded . . . for additional, secret profits,'' *id.* at 7, subjugating his patients' interests to his own greed, since he did not need the money given he ''was earning more than half a million dollars per year,'' according to ''what was actually reported on . . . [Respondent's] tax returns.'' *Id.* at 6.

The Government's Sentencing Memo states that, while Respondent ''appeared to have no plans to stop committing his crime prior to being approached by law enforcement, he did accept responsibility for his actions immediately.'' *Id.* at 5. Elsewhere, the Government's Sentencing Memo states that Respondent ''has unquestionably taken full responsibility for his action [sic] going so far as to provide significant cooperation to the [G]overnment after his arrest.'' *Id.* at 7. Respondent's ''significant cooperation,'' according to the Sentencing Memo, consisted of ''conduct[ing] two recordings that were ultimately used . . . in the investigation and prosecution of administrators and physicians,'' testifying at two trials ''over the course of multiple days and participat[ing] in numerous preparation sessions during the course of his cooperation,'' and providing law enforcement with ''information regarding other corrupt home health entities and doctors that the [G]overnment was able to use'' in other investigations. *Id.* at 5–6. The Sentencing Memo states that Respondent's ''significant cooperation'' was the reason it was recommending a lower sentence than it otherwise would have recommended, given that Respondent ''took advantage of the faith and commitment of his patients in order to extract benefits for himself to which he knew he was not entitled.'' *Id.* at 6.

Respondent's Sentencing Hearing: Respondent also attached the Transcript of Sentencing Hearing to the Written Statement. When Respondent took advantage of his right to speak at his Sentencing Hearing, he stated that ''it has been a long, rough and stressful five years for me and my family.'' GX 7 (Transcript of Proceedings—Sentencing Hearing at 38–39, *United States* v. *Asgar,* No.–12 CR 491–10 (N.D. Ill. June 15, 2016) (hereinafter, Transcript of Sentencing Hearing). Regarding acceptance of responsibility, Respondent stated that, ''Over this period my character and reputation that was at the peak slid down to the bottom as a consequence of my wrongdoing, for which I deeply regret, and accept full responsibilities.'' *Id.* at 39. He emphasized that he ''cooperated and helped the [G]overnment in every way possible to successfully bring to an end one of the biggest and high profile

medical scandals in Illinois history.'' *Id.* Respondent stated that his cooperation with the investigation included ''recording of conversation [sic] with medical personnel, administrative officers, meeting with prosecutors, federal agents, lengthy trial, trial preparations and testifying at trials.'' *Id.*

An Assistant United States Attorney (hereinafter, AUSA) also addressed the Court at Respondent's Sentencing Hearing. He agreed that Respondent cooperated with the criminal investigation and reiterated that Respondent's cooperation was ''one of the essential factors in mitigation.'' *Id.* at 31. He stated that Respondent ''has also undertaken significant steps to make amends.'' *Id.* at 37.

The AUSA also addressed aggravating factors. He stated that Respondent's crime involved ''betrayal of patients' trust[, and] . . . betrayal of larger society, which places trust in doctors to do the right thing [–] to put the patients over their own personal pecuniary gains.'' *Id.* at 34. The AUSA stated that, ''for reasons that may be simply greed,'' Respondent was among those ''willing to trade off the trust that their patients and their society placed in them and trade that for financial gain.'' *Id.* at 36. The AUSA stated that doctors ''occupy a special place in our society'' and criminal sentences ''do have a real deterrent effect.'' *Id.* He urged the Court to ''send a message'' that ''[i]f you violate the anti-kick back [sic] statute, if you conspire to turn your patients into chips to be turned in, there are repercussions.'' *Id.*

During the sentencing hearing, the Court repeatedly referenced Respondent's greed and obstruction of justice. The Court pointed out that Respondent ''probably . . . had the most lucrative practice going at the time.'' *Id.* at 33. Yet, the Court stated, ''on top of that,'' Respondent was ''helping himself to the kickbacks.'' *Id.* Further, the Court stated, agreeing with the AUSA, that despite ''inflection points, . . . times when someone would have caught themselves maybe and said, 'Eh, I'm out,' '' Respondent, instead, wanted to ''cover it up.'' *Id.* at 33–34. The ''obstruction piece on top of it,'' the Court stated, ''compounds that a little bit.'' *Id.* at 34.

Based on the uncontroverted evidence in the record, I find that Respondent participated in multi-year illegal kickback conspiracies involving the payment of about $230,900 in illegal kickbacks to himself and his co-conspirator, and of Medicare claims of over $2.9 million.

In addition, I find that, during the criminal investigation, Respondent urged another doctor ''to lie if asked whether that doctor had ever provided patients in return for money.'' GX 7 (Government Sentencing Memo) at 3; *see also* GX 3, at 4. Thus, I find, as the District Judge found, that Respondent sought to obstruct justice.

While Respondent, according to the Government Sentencing Memo, ''appeared to have no plans to stop committing his crime prior to being approached by law enforcement, he did accept responsibility for his actions immediately.'' GX 7 (Sentencing Memo, at 5); *see also id.* at 8–9 (Respondent's ''cooperation in this case and his immediate acceptance of responsibility demonstrate not only an acknowledgement of his wrongdoing, but a sincere effort to take steps to make amends for the crime that [he] has committed.''). Thus, I find, based on the record as a whole, including the plea agreement; the statements by the prosecutor handling the criminal case, both in the Government's Sentencing Memo (stating that Respondent had ''acknowledged the full scope of his lengthy criminal conduct,'' GX 7 (Sentencing Memo, at 3) and at the sentencing hearing; and the District Court's acceptance of the guilty plea, the plea agreement, and application of the sentencing guidelines reductions based on his acceptance of responsibility; that Respondent accepted responsibility for his criminality.

Respondent's Mandatory Exclusion From Participation in All Federal Health Care Programs

By letter dated September 30, 2016, a Health Care Program Exclusions Reviewing Official of the HHS OIG notified Respondent that he was ''being excluded from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act . . . for a minimum period of 5 years.'' GX 5, at 1 (hereinafter, HHS Exclusion Letter), also citing 42 U.S.C. 1320a–7(a). The HHS Exclusion Letter explained that Respondent's exclusion was ''due to . . . [his] conviction . . . of a criminal offense related to the delivery of an item or service under the Medicare or a State health care program.'' *Id.* It stated that Respondent's exclusion is ''effective 20 days from the date of this letter.'' *Id.*

As 42 U.S.C. 1320a–7(a) makes clear, Respondent's conviction subjected him to the mandatory exclusion provision, and in his Written Statement, Respondent admits that he has been mandatorily excluded under 42 U.S.C. 1320a–7(a). I find, therefore, that Respondent has been excluded under the mandatory exclusion provisions of 42 U.S.C. 1320a–7(a). Based on the terms of the HHS Exclusion Letter, uncontroverted by evidence in the record, I further find that Respondent's period of exclusion is still in effect.

Discussion

Pursuant to 21 U.S.C. 824(a)(5), the Attorney General may suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has been excluded . . . from participation in a program pursuant to section 1320a–7(a) of Title 42.'' Further, ''It is well established that the various grounds for revocation or suspension of an existing registration that Congress enumerated in [§ 824(a)] are also properly considered in deciding whether to grant or deny an application under [§ 823].'' *Arthur H. Bell, D.O.,* 80 FR 50035, 50037 (2015) (citing *The Lawsons, Inc.,* 72 FR 74334, 74337 (2007); *Anthony D. Funches,* 64 FR 14267, 14268 (1999); *Alan R. Schankman, M.D.,* 63 FR 45260 (1998); *Kuen H. Chen, M.D.,* 58 FR 65401, 65402 (1993)); *see also Serling Drug Co. and Detroit Prescription Wholesaler, Inc.,* 40 FR 11918, 11919 (1975) (consistent Agency precedent has held that the CSA does not require the Agency to indulge in the useless act of granting a license on one day only to withdraw it on the next).

Agency precedent has made clear that revocation under 21 U.S.C. 824(a)(5) may be appropriate regardless of whether or not the misconduct that led to the mandatory exclusion involved controlled substances. *KK Pharmacy,* 64 FR 49507, 49510 (1999) (collecting cases) (The Agency ''has previously held that misconduct which does not involve controlled substances may constitute grounds, under 21 U.S.C. 824(a)(5), for the revocation of a DEA Certificate of Registration.''); *Melvin N. Seglin, M.D.,* 63 FR 70431, 70433 (1998) (''[M]isconduct which does not involve controlled substances may constitute grounds for the revocation of a DEA registration pursuant to 21 U.S.C. 824(a)(5).''), *Stanley Dubin, D.D.S.,* 61 FR 60727, 60728 (1996) (Registration revoked and pending applications for renewal denied when registrant's ''actions cast substantial doubt on . . . [his] integrity.''); *George D. Osafo, M.D.,* 58 FR 37508, 37,509 (1993) (Submission of fraudulent medical claims and larceny convictions indicated that registrant ''placed monetary gain above the welfare of his patients, and in so doing, endangered the public health and safety.'').

Under 42 U.S.C. 1320a–7(a)(1), the HHS OIG is required to exclude from

participation in any Federal health care program any individual who has been convicted of a criminal offense ''related to the delivery of an item or service under . . . [42 U.S.C. 1395 *et seq.*] or under any State health care program.'' As found above, Respondent has been excluded from participation in any Federal health care program based on his ''conviction . . . of a criminal offense related to the delivery of an item or service under the Medicare or a State health care program,'' GX 5, at 1, and this is a mandatory exclusion subject to 21 U.S.C. 824(a)(5). Accordingly, I hold that DEA's evidence satisfies its *prima facie* burden to support revocation of Respondent's registration.

Sanction

Where, as here, DEA has established grounds to revoke a registration or deny an application, a respondent must then ''present[ ] sufficient mitigating evidence'' to show why he can be entrusted with a registration. *Samuel S. Jackson,* 72 FR 23848, 23853 (2007) (quoting *Leo R. Miller,* 53 FR 21931, 21932 (1988)). '' 'Moreover, because ''past performance is the best predictor of future performance,'' *ALRA Labs, Inc.* v. *DEA,* 54 F.3d 450, 452 (7th Cir. 1995), [DEA] has repeatedly held that where [an applicant] has committed acts inconsistent with the public interest, the [applicant] must accept responsibility for [his] actions and demonstrate that [he] will not engage in future misconduct.' '' *Jayam Krishna-Iyer,* 74 FR 459, 463 (2009) (quoting *Medicine Shoppe,* 73 FR 364, 387 (2008)); *see also Jackson,* 72 FR at 23853; *John H. Kennedy,* 71 FR 35705, 35709 (2006); *Cuong Tron Tran,* 63 FR 64280, 64283 (1998); *Prince George Daniels,* 60 FR 62884, 62887 (1995). The same rule applies to the other grounds for sanctioning a registrant where the Agency has discretion as to the choice of sanction such as section 824(a)(5). *See Arvinder Singh,* 81 FR 8247, 8248 (2016) (denying application based, in part, on practitioner's mandatory exclusion, where practitioner ''failed to adequately acknowledge his misconduct'').

While a registrant must accept responsibility for his misconduct and demonstrate that he will not engage in future misconduct in order to establish that he is entitled to retain his registration, DEA has repeatedly held that these are not the only factors that are relevant in determining the appropriate disposition of the matter. *See, e.g., Joseph Gaudio,* 74 FR 10083, 10094 (2009); *Southwood Pharmaceuticals, Inc.,* 72 FR 36487, 36504 (2007). Obviously, the egregiousness and extent of an applicant's misconduct are significant factors in determining the appropriate sanction. *See Singh,* 81 FR at 8248 (denying application based, in part, on mandatory exclusion, noting that the practitioner's ''misconduct was egregious''); *Jacobo Dreszer,* 76 FR 19386, 19387–88 (2011) (explaining that a respondent can ''argue that even though the Government has made out a *prima facie* case, his conduct was not so egregious as to warrant revocation''); *see also Paul Weir Battershell,* 76 FR 44359, 44369 (2011) (imposing six-month suspension, noting that the evidence was not limited to security and recordkeeping violations found at first inspection and ''manifested a disturbing pattern of indifference on the part of [r]espondent to his obligations as a registrant''); *Annibal P. Herrera,* 61 FR 65075, 65078 (1996) (declining to revoke registration in mandatory exclusion case).

So too, the Agency can consider the need to deter similar acts, both with respect to the respondent in a particular case and the community of registrants. *See Gaudio,* 74 FR at 10095 (quoting *Southwood,* 71 FR at 36503); *Singh,* 81 FR at 8248 (adopting ALJ's finding that ''agency's interest in specific deterrence support[ed] denial of'' application); *Cf. McCarthy* v. *SEC,* 406 F.3d 179, 188–89 (2d Cir. 2005) (upholding SEC's express adoption of ''deterrence, both specific and general, as a component in analyzing the remedial efficacy of sanctions'').

In his Written Statement, Respondent argues that ''[i]t is doubtful there is a better example of a situation where a physician has earned the opportunity to retain his . . . [registration].'' GX 7 (Written Statement, at 4). The Written Statement supports this claim by stating that Respondent ''admitted throughout this entire process . . . that he made a regrettable error in judgment.'' *Id.* at 3. It also asserts that Respondent ''took complete responsibility for his actions, cooperated fully with authorities, went above and beyond to assist the government in charging and convicting health care providers engaged in wrongdoing, made restitution, completed his incarceration and has never had any aspersions cast upon his ability to practice medicine or manage prescriptions.'' *Id.* The Written Statement, however, does not include documentary evidence that Respondent made restitution or completed his incarceration.

The Written Statement also asserts that Respondent ''continues to comply with all conditions of his probation.'' [2] GX 7 (Written Statement, at 1). It states that, ''[d]uring the . . . 5 . . . year period prior to his sentencing, . . . [Respondent] worked diligently to assist the government in identifying and investigating cases against persons involved in health care fraud.'' *Id.* According to the Written Statement, Respondent's ''cooperation and testimony were instrumental in securing the conviction and sentencing of multiple health care providers,'' *id.,* and the record shows that the Federal prosecutors and the District Judge agreed with the value and completeness of Respondent's eventual cooperation.

In his Written Statement, Respondent stated that he is ''a caring, compassionate and skilled physician'' whose ''colleagues regard him as skilled, hardworking, dependable, sought after by patients, thorough and exceedingly competent.'' GX 7 (Written Statement, at 2). It states that Respondent ''provides services to an historically underserved and indigent community in Gary, Indiana.'' *Id.* It also asserts that the District Judge who presided over Respondent's sentencing and the Assistant United States Attorney ''involved in'' Respondent's prosecution ''recognized . . . [his] contribution to the practice of medicine and noted the important role he has in the community as a physician.'' *Id.* According to the Written Statement, the District Judge ''hoped'' Respondent ''could continue to practice medicine in his community.'' *Id.* As support for his argument, Respondent relies on *Kwan Bo Jin, M.D.,* 77 FR 35021 (2012).

However, Respondent's reliance on *Kwan Bo Jin* for the proposition that the Agency has considered such community impact regarding prescribing practitioners is misplaced. In fact, the case stands for the opposite proposition in all types of prescribing practitioner revocation proceedings, not just in mandatory exclusion revocation proceedings under 21 U.S.C. 824(a)(5). *See* 77 FR at 35021 (''I have decided to adopt the ALJ's findings of fact and conclusions of law, except for his discussion of the role of community impact evidence in agency proceedings . . . which is contrary to agency precedent.''). *See also Michael W. White, M.D.,* 79 FR 62957, 62964 (2014) (Holding that hundreds of letters written by Respondent's patients vouching for the quality of care Respondent provided them are ''irrelevant. The Agency has consistently held that so-called 'community impact evidence' is not relevant in these proceedings.'');

[2] DEA does not challenge this assertion.

Gregory D. Owens, D.D.S., 74 FR 36751, 36757 and n.22 (2009) (''The residents of this Nation's poorer areas are as deserving of protection from diverters as are the citizens of its wealthier communities, and there is no legitimate reason why practitioners should be treated any differently because of where they practice or the socioeconomic status of their patients.'' Considering community impact evidence would ''inject a new level of complexity into already complex proceedings and take the Agency far afield of the purpose of the . . . registration provisions, which is to prevent diversion.'').[3]

Counsel's Written Statement suggests that Respondent, like the respondent in *Seglin,* ''did not 'attempt to conceal his misconduct and in fact was quite straightforward with the investigators.' '' GX 7 (Written Statement, at 3, citing *Melvin N. Seglin, M.D.,* 63 FR at 70,433). As already discussed, Respondent's obstruction of justice was recorded on more than one occasion. Thus, although I will not revoke Respondent's registration, I reject Counsel's argument that Respondent did not attempt to conceal his misconduct.

As for acceptance of responsibility, Agency precedent requires unequivocal acceptance of responsibility when a respondent has committed knowing or intentional misconduct. *Lon F. Alexander, M.D.,* 82 FR 49704, 49728 (2017) (collecting cases) (A respondent who committed knowing or intentional misconduct must unequivocally acknowledge his misconduct.). *Cf. Melvin N. Seglin,* 63 FR at 70433 (Respondent thought the billing method he used was acceptable). Respondent's participation in the multi-year illegal cash kickback payment conspiracy was just that, knowing and intentional. *See, e.g.,* GX 3, at 2–3 (Respondent's admissions in the Plea Agreement to knowing and willful criminality); GX 7 (Government Sentencing Memo, at 2–3) (describing the recorded acts forming the basis for the obstruction of justice enhancement); GX 7 (Transcript of Sentencing Hearing, at 37) (AUSA's description of Respondent's knowing and willful acts).

I find, however, that the record as a whole shows the requisite acceptance of responsibility. According to the Plea Agreement, Respondent ''has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct.'' GX 3, at 9. While Respondent ''appeared to have no plans to stop committing his crime prior to being approached by law enforcement,'' the AUSA acknowledged that ''he did accept responsibility for his actions immediately.'' GX 7 (Government Sentencing Memo, at 5). The AUSA also stated that Respondent ''has unquestionably taken full responsibility for his action going so far as to provide significant cooperation to the government after his arrest.'' *Id.* at 7. Moreover, at the sentencing hearing, in addressing the need for specific deterrence, the AUSA concluded there was ''no need'' for it, stating that Respondent's ''immediate acceptance of responsibility demonstrate[s] not only an acknowledgement of his wrongdoing, but a sincere effort to take steps to make amends for the crime that [he] has committed.'' *Id.* at 8–9. Notably, DEA has put forward no evidence challenging the sincerity of Respondent's acceptance of responsibility.

As for evidence in the record regarding whether Respondent should continue to be entrusted with a registration, the District Judge was troubled by Respondent's greed and the fact that Respondent took affirmative steps to obstruct justice. I, too, am troubled by the same facts. I do note, however, that Respondent's criminality did not directly involve his registration or controlled substances. There is nothing in the record addressing, let alone impugning, Respondent's use of his registration.

As for the Agency's interest in deterrence, I adopt the District Judge's conclusion that specific deterrence is not a concern. GX 7 (Transcript of Sentencing Hearing, at 8). I agree with the District Judge that ''[g]eneral deterrence is the question.'' *Id.* at 30. While not issuing some sanction due to Respondent's outrageous misconduct sends the wrong message to the registrant community, not acknowledging the prosecutors' unqualified satisfaction with Respondent's significant cooperation likewise sends the wrong message.

On the whole, while I find that the Respondent was involved in knowing and willful criminal conduct, I also find that this conduct did not involve the misuse of his registration to handle controlled substances. I further find, as the District Judge did, that the Respondent has accepted responsibility for his conduct. In sum, this case is factually unique, and, as such, I will impose a unique sanction.

Based on all of the evidence in the record, I shall suspend Respondent's registration for a minimum period of two years. Said suspension shall terminate upon Respondent's providing evidence that he has satisfied the judgment of the District Court by paying the entire amount due pursuant to the District Court's Judgment.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FA3926055 issued to Mohammed Asgar, M.D., be, and it hereby is, suspended for a minimum period of two years and that said suspension shall terminate upon Respondent's providing evidence that he has satisfied the judgment of the District Court by paying the amount he was ordered to pay pursuant to the Court's judgment. This Order is effective July 25, 2018.

Dated: June 11, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–13531 Filed 6–22–18; 8:45 am]

BILLING CODE 4410–09–P

[3] DEA's brief appears to agree with Respondent's reading of *Kwan Bo Jin* while distinguishing it on the facts. RFAA, at 5–6. As recognized in 21 CFR 1301.43, a written statement ''shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.'' In this case, other credible evidence, such as the District Court's acceptance of the Respondent's guilty plea, the application of the Sentencing Guidelines provision crediting Respondent with accepting responsibility, and the concession by the AUSA in the criminal case that Respondent accepted responsibility, supports Respondent's contention that he has accepted responsibility.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 18–15]

Decision and Order: Kevin G. Morgan, RN/APN

On December 22, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Kevin G. Morgan, RN/APN (Respondent), of Nederland, Texas. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration No. MM2890312 on the ground that he does ''not have authority to handle controlled substances in the state of Texas, the state in which [Respondent is] registered with the DEA.'' Order to Show Cause, at 1 (citing 21 U.S.C. 823(f), 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent is the holder of Certificate of Registration No. MM2890312, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules III through V, at the registered address

of 1003 Nederland Ave., Nederland, Texas. *Id.* The Order also alleged that this registration does not expire until January 31, 2019. *Id.*

Regarding the substantive ground for the proceeding, the Show Cause Order alleged that on December 1, 2017, the Texas State Board of Nursing (TSBN), ''suspended [Respondent's] nursing license, including [Respondent's] prescriptive authority'' and that ''[t]his suspension remains in effect.'' *Id.* at 2. The Order alleged that the TSBN's suspension was ''based on allegations that [Respondent] acted outside [his] authorized scope of practice and misrepresented information to the public which was likely to deceive the public.'' *Id.* The Order further alleged that Respondent is therefore ''without authority to handle controlled substances in Texas, the [S]tate in which [he is] registered with the DEA.'' *Id.* Based on his ''lack of authority to [dispense] controlled substances in . . . Texas,'' the Order asserted that ''DEA must revoke'' his registration. *Id.* (citing 21 U.S.C. 802(21), 823(f)(1), 824(a)(3)).

The Show Cause Order notified Respondent of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of his right to submit a corrective action plan. *Id.* at 3–4 (citing 21 U.S.C. 824(c)(2)(C)).

On January 23, 2018, Respondent filed a letter with the Office of Administrative Law Judges (OALJ) in which he requested a hearing on the allegation of the Show Cause Order and stated his desire to explain ''how he is not a threat, provided great care, and how the State of Texas erroneously and wrongly suspended his license.'' Letter from Respondent's Counsel to Hearing Clerk (dated January 22, 2018) (hereinafter, Hearing Request), at 1. The matter was placed on the OALJ's docket and assigned to Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, CALJ). On January 23, 2018, the CALJ issued an order entitled ''Order Directing the Filing of Government Evidence of Lack of State Authority Allegation and Briefing Schedule'' (hereinafter, ''Briefing Order'') in which the CALJ found, *inter alia,* that ''the Respondent, by counsel, filed a letter which requested a hearing in the matter of [sic] order to show cause. Therefore, the letter is construed as the Respondent's Request for Hearing.'' Briefing Order, at 1.

Pursuant to 21 CFR 1301.43(a), ''any person entitled to a hearing . . . and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause, . . . file with the Administrator a written request for a hearing.'' *Accord* Show Cause Order, at 2. The CALJ did not indicate in his Briefing Order or in his Recommended Decision—and the rest of the administrative record does not indicate—when Respondent received the Show Cause Order. Without any evidence in the record establishing when Respondent received the Show Cause Order, the only way in which I could find that Respondent's Hearing Request was timely is if it had been filed with the Administrator within 30 days of the December 22, 2017 date of the Show Cause Order. However, the OALJ did not receive Respondent's Hearing Request until January 23, 2018.[1] Hearing Request, at 1. Accordingly, I find that Respondent's Hearing Request was not timely filed pursuant to 21 CFR 1301.43(a), and as a result, Respondent waived his right to a hearing.

In the absence of a timely hearing request, I also find that the CALJ consequently lacked jurisdiction to hear the case. *Accord David A. Ruben, M.D.,* 83 FR 12027, 12028 (2018) (same) (citing *Brown's Discount Apothecary BC, Inc., and Bolling Apothecary, Inc.,* 80 FR 57393, 57394 (2015) (''in the absence of a hearing request, the ALJ had no authority to rule on the issue of whether its registration should be revoked'')). I therefore cancel the hearing *nunc pro tunc* held by the CALJ by summary disposition. *See* 21 CFR 1301.43(e); *accord Ruben,* 83 FR at 12028. Accordingly, I will treat this case as a Request for Final Agency Action and issue this Decision and Order based on the relevant evidence forwarded to my office by the CALJ on March 19, 2018.[2] *See id.* I make the following findings.

Findings of Fact

Respondent is a holder of DEA Certificate of Registration No. MM2890312. Government Exhibit (GX) 1 to Govt. Mot. Pursuant to his registration, Respondent is authorized to dispense controlled substances in schedules III through V as an ''MLP-Nurse Practitioner.'' *Id.* Respondent's registered address is 1003 Nederland Ave., Nederland, Texas. *Id.* Respondent's registration does not expire until January 31, 2019. *Id.*

On December 1, 2017, the TSBN issued an ''Order of Temporary Suspension'' stating that Respondent's ''Permanent Advanced Practice Registered Nurse License Number AP123323 with Prescription Authorization Number 13799 and Permanent Registered Nurse License Number 758246 . . . to practice nursing in the State of Texas is/are, hereby SUSPENDED IMMEDIATELY.'' GX 2, at 17. The TSBN issued this Order after finding that ''given the nature of the charges, the continued practice of nursing by [Respondent] constitutes a continuing and imminent threat to public welfare.'' *Id.* Finally, the TSBN stated that ''a probable cause hearing be conducted . . . not later than seventeen (17) days following the date of the entry of this order, and a final hearing on the matter be conducted . . . not later than the 61st day following the date of the entry of this order.'' *Id.* There is no evidence in the record establishing that the TSBN ever lifted this suspension. Based on the above, I find that Respondent does not currently have authority under the laws of Texas to dispense controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.''

[1] Although the front of Respondent's Hearing Request is stamped ''Received'' by the Office of Administrative Law Judges on January 23, 2018, the fax confirmation page attached to the Hearing Request states that it arrived in that office on ''January 22, 2018.'' *Compare* Hearing Request, at 1, *with id.* at 3. In any event, neither date is within 30 days of the December 22, 2017 date of the Show Cause Order.

[2] In his Briefing Order, the CALJ ordered the Government to file evidence to support its allegation that Respondent lacks state authority to handle controlled substances, and any motion for summary disposition on these grounds, on February 2, 2018. Briefing Order at 1–2. The CALJ also directed Respondent to file his response to any summary disposition motion on February 15, 2018. *Id.* at 2. On February 2, 2018, the Government filed its Motion for Summary Disposition, and the Respondent filed his response on February 15, 2018. *See* Government's Motion for Summary Disposition (hereinafter, ''Govt. Mot.''); Response to the DEA's Proposed Revocation and Motion to Temporarily Abate and Stay the Proceedings for Fifty Days (hereinafter, ''Respondent's Brief'' or ''Resp. Br.''). On February 20, 2018, the CALJ issued his Order granting summary disposition and Recommended Decision. Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (hereinafter, Recommended Decision or R.D.). Neither party filed exceptions to the CALJ's Recommended Decision. Although the CALJ's Recommended Decision did not establish that he had jurisdiction in this case, I will nonetheless consider the administrative record that he submitted to me in its entirety.

Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR at 27616.

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the TSBN summarily suspended Respondent's state medical license. What is consequential is the undisputed fact that Respondent is no longer currently authorized to dispense controlled substances in Texas, the State in which he is registered. Accordingly, Respondent is not entitled to maintain his DEA registration, and I will therefore order that his registration be revoked.[3]

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. MM2890312, issued to Kevin G. Morgan, RN/APN, be, and it hereby is, revoked. I further order that any pending application of Kevin G. Morgan to renew or modify the above registration, or any pending application of Kevin G. Morgan for any other DEA registration in the State of Texas, be, and it hereby is, denied. This Order is effective immediately.[4]

Dated: June 14, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–13530 Filed 6–22–18; 8:45 am]

BILLING CODE 4410–09–P

[3] The CALJ received and considered the Government's Motion for Summary Disposition and Respondent's Brief. In his brief, Respondent ''d[id] not contest that he is subject to a temporary suspension of his state prescriptive authority.'' Resp. Br. at 1. However, Respondent argued that he will be presenting evidence at ''a probable cause hearing to be held on March 6, 2018,'' that his suspension ''was granted on flawed information and false allegations,'' and that he ''has not had the chance to defend his self [sic] against these allegations.'' *Id.* However, as already noted above, the TSBN suspended Respondent's nursing license and his authority to issue prescriptions. GX 2, at 17. As of the date of this order, Respondent has not filed a motion for reconsideration on the ground that the TSBN has lifted the suspension. The CALJ concluded that the fact that the State has yet to provide a hearing to challenge Respondent's suspension does not change the undisputed fact that Respondent's state prescriptive authority is suspended. R.D. at 7–8. Accordingly, if the CALJ had the authority to issue his conclusion rejecting Respondent's argument, I would have adopted this conclusion.

[4] For the same reasons which led the TSBN to suspend Respondent's license and prescriptive authority, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[EOIR Docket No. 18–0202]

RIN 1125–AA81

EOIR Electronic Filing Pilot Program

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Public notice.

SUMMARY: The Executive Office for Immigration Review (EOIR) is creating a voluntary pilot program to test an expansion of electronic filing for cases filed with the immigration courts and the Board of Immigration Appeals (BIA). This notice describes the procedures for participation in the pilot program.

DATES: The pilot program will be in effect from July 16, 2018 until July 31, 2019. Initially, expanded electronic filing will be available in six immigration courts, but will be expanded to all remaining courts and the BIA incrementally. Eligible attorneys and accredited representatives may choose to participate at any time during the pilot program and will be permitted to continue using electronic filing throughout the pendency of electronically filed cases.

FOR FURTHER INFORMATION CONTACT: Nathan Berkeley, Acting Chief, Communications and Legislative Affairs Division, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2618, Falls Church, VA 22041, telephone (703) 305–0289 (not a toll-free call) or email *PAO.EOIR@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1998, Congress passed the Government Paperwork Elimination Act, which required federal agencies to provide the public with the ability to conduct business electronically with the federal government. *See* Public Law 105–277 (Oct. 21, 1998). Similarly, in 2002, Congress passed the E-Government Act of 2002, which promoted electronic government services and required agencies to use internet-based technology to increase the public's access to government information and services. *See* Public Law 107–347 (Dec. 17, 2002).

As a result, EOIR began pursuing a long-term agency plan to create an electronic case access and filing system for the immigration courts and BIA. *See* 68 FR 71650 (Dec. 20, 2003) (''The Department is . . . designing an

electronic case access and filing system, to comply with the Government Paperwork Elimination Act, to achieve the Department's vision for improved immigration adjudication processing, and to meet the public expectations for electronic government.'').

On April 1, 2013, EOIR completed the first portion of their electronic system by establishing eRegistry, a mandatory electronic registry for all attorneys and accredited representatives who practice before the immigration courts and the BIA. *See* 78 FR 19400 (April 1, 2013). At the same time, EOIR began allowing attorneys and fully accredited representatives [1] to electronically file the Notice of Entry of Appearance as Attorney or Representative (Form EOIR–27 and Form EOIR–28, for the BIA and immigration courts, respectively).

Next, on May 4, 2015, EOIR launched eInfo, which allows registered attorneys and accredited representatives to view their clients' case information.[2] *See* News Release, *The Executive Office for Immigration Review Announces I*[3], *https://www.justice.gov/sites/default/files/pages/attachments/2015/09/17/e-info-news-release-05042015.pdf.* Attorneys and accredited representatives can login to the eInfo application to view a list of cases for which they have an active Notice of Entry of Appearance (Form EOIR–27 and/or Form EOIR–28) and select one to view case-related information.

Since January 2017, EOIR has been undertaking additional and more expansive initiatives to reduce its longstanding backlog of cases and working to ensure the more efficient handling of matters before the immigration court system. To that end, EOIR is moving towards implementing a long sought-after electronic system component that will allow parties to electronically file case-related documents with the immigration courts and the BIA.

II. Pilot Program

EOIR is now planning to pilot an expansion of electronic filing within eInfo to allow certain parties to electronically file case-related documents with the immigration courts and, eventually, the BIA. With the exception of entering a Notice of Entry of Appearance through I[3], parties before the immigration courts and the BIA are currently required to submit paper filings to EOIR and to serve a copy on the other party in-person, by mail, or through DHS's eService portal.

Expanded electronic filing will meet the long sought-after requests of the private bar to accept electronic filings. *See, e.g.,* AILA Testimony on EOIR, AILA Doc. No. 10061664 (June 17, 2010). As the expanded electronic filing pilot is a major change to EOIR processes, the pilot will be limited to DHS personnel, and registered attorneys and accredited representatives eligible to practice before EOIR.

The pilot will allow attorneys and accredited representatives to electronically file case-related documents directly through eInfo. Similarly, DHS representatives will be able to login to a parallel portal to electronically file case-related documents. The expanded electronic filing pilot will allow the parties to file documents at any time of day without having to mail the documents to the court or BIA, or to file them in-person at the court or BIA. Parties will receive an on-screen confirmation with a unique transaction ID, as well as an encrypted verification email, when their document is successfully uploaded. They will also receive an encrypted notification email when a new document has been filed in their case by the opposing party. Instructions to decrypt emails will be available on EOIR's website. This will provide the parties with near-immediate access to filings in their cases. Both pilot participants and non-participants will be able to view any documents contained in their case by accessing eInfo and requesting to download the electronic Record of Proceeding (eROP).

To ensure that parties receive proper notice from the opposing party to their case, pilot parties will be required to continue to meet current service requirements [3] for any documents that they are electronically filing with the court or BIA. Participation in the pilot neither relieves parties of the duty to provide a certificate of service with filings nor changes the time at which response documents are due. The timeline for responses begins at the time the system sends an email regarding a filing to the opposing party.

Case-related documents EOIR generates at the pilot locations, such as decisions, orders, or notices, will be served only electronically on participating parties. Both parties will receive an encrypted email from EOIR with the document attached. This will constitute valid service and proper notice by EOIR during the pilot. To effectuate such service, attorneys and accredited representatives will be required to maintain a valid email address in the eRegistry application.

Throughout the pilot, EOIR will continue to refine and develop electronic filing. In the future, the agency envisions making electronic filing mandatory for all attorneys and accredited representatives appearing before EOIR and optional for pro se respondents. To ensure the most efficient and user-friendly system possible, EOIR hopes to receive feedback from participating parties, both internal and external. Participants will be able to provide input at any time through an email link within eInfo.

III. Eligibility To Participate

Beginning in July 2018, EOIR is planning to roll out the expanded electronic filing to six initial pilot courts: San Diego and York in July; Denver and Atlanta in August; and Charlotte and Baltimore in September. Following an internal assessment of the pilot in those courts, EOIR anticipates expanding the pilot to additional courts every few weeks beginning in December 2018. EOIR will also be working towards implementing expanded electronic filing at the BIA during this time period. Information regarding future pilot expansion will be located on EOIR's website at *https://www.justice.gov/eoir/internet-immigration-info.*

Participation in the pilot program is voluntary. An opportunity to participate in the pilot will be available throughout the duration of the pilot to all EOIR-registered attorneys and accredited representatives in good standing. Information on participating in the pilot will be provided on EOIR's website at *https://www.justice.gov/eoir/internet-immigration-info.* Only registered attorneys and accredited representatives will be permitted to participate in the pilot.

IV. Procedures for Participation

To participate in the expanded electronic filing pilot, attorneys and accredited representatives must be registered with EOIR through eRegistry pursuant to 8 CFR 1292.1(f). The eRegistry process for attorneys and accredited representatives will not change. Similarly, to participate in the

[1] EOIR's Office of Legal Access Programs reviews non-attorneys' applications to become fully accredited representatives who, upon approval, can represent aliens in immigration court proceedings and before DHS. For more information, please see *https://www.justice.gov/eoir/recognition-and-accreditation-program.* This pilot is not available to partially accredited representatives.

[2] EOIR also consolidated eRegistry, eInfo, and eFiling into a single application suite, known as I[3]. For more information about I[3], please visit *https://www.justice.gov/eoir/internet-immigration-info.*

[3] For information on service requirements, please see the Immigration Court Practice Manual and the Board of Immigration Appeals Practice Manual at *www.justice.gov/eoir.*

pilot DHS personnel will also use eRegistry to register with EOIR.

Once the eRegistry process is complete, attorneys and accredited representatives will have access to eInfo, located at *https://www.justice.gov/eoir/internet-immigration-info,* and DHS personnel will have access to the parallel DHS electronic filing portal. When an attorney or accredited representative first accesses eInfo, the option to participate in the expanded electronic filing pilot is presented. The attorney or accredited representative must agree to a set of terms and conditions for the pilot, which explain the requirements for participation in the pilot and are mandatory for pilot participants. Failure to follow the pilot requirements to which attorneys and representatives agree upon signing up and agreeing to the terms and conditions may lead to serious adverse consequences, such as filings being rejected or not receiving service of documents from EOIR. Any future changes to the terms and conditions will be presented to the attorney or accredited representative in eInfo and will require their voluntary acceptance for continued participation in the pilot.

An attorney or accredited representative's acceptance of the pilot's terms and conditions is an agreement to participate in the pilot for all cases for which they have filed a Notice of Entry of Appearance and an eROP is available. Throughout the pilot at participating immigration courts, eROPs will be available for all cases in which one of the parties files an initiating document, such as a Form I–862, Notice to Appear; Form I–863, Notice of Referral to Immigration Judge; or a bond redetermination request. An eROP will also be available when an attorney or accredited representative files a Notice of Entry of Appearance and the court staff scan the existing paper record of proceedings into the pilot system. Representatives will be able to tell which cases have an eROP by the active upload button that will appear in the system.

Attorneys and accredited representatives will be able to electronically file documents in eligible cases beyond the pilot end date until the conclusion of all administrative proceedings in those cases, including any remands from the federal courts. In any case where a motion for change of venue is granted from a pilot location to a non-pilot location, or a clerical transfer occurs from a pilot location to a non-pilot location, the attorney or accredited representative will be required to follow the current non-electronic filing requirements at the non-pilot location.

The attorney or accredited representative may leave the pilot at any time by selecting the ''opt out'' option in eInfo. By leaving the pilot, the attorney or accredited representative must revert to following all current procedures and requirements for non-electronic filing with the immigration courts and BIA for those cases that were part of the pilot. The eROP for those files already electronically filed will remain available for download, but electronic scanning or filing will be unavailable to that attorney during the pilot period unless the attorney opts back in to the pilot. The attorney or accredited representative may choose to join the pilot again by returning to eInfo and re-accepting the pilot terms and conditions during the pilot period.

V. Additional Information

Registered attorneys and registered accredited representatives will be held responsible for all activity conducted under their accounts. Misuse of the electronic filing system may result in EOIR revoking an attorney or accredited representative's participation in the pilot, and in referral to EOIR's disciplinary counsel or anti-fraud officer, or other appropriate parties, as necessary.

If an attorney or accredited representative has been disbarred or suspended from practice before the immigration courts or the BIA or is otherwise not authorized to practice law before EOIR, EOIR will deactivate the user's EOIR ID, which provides access to electronic filing, unless and until the BIA reinstates or otherwise permits the attorney or accredited representative to resume practice. *See* 8 CFR 1003.101 *et seq.*

EOIR will not initially collect or accept any fee payments through this expanded electronic filing pilot. Any fees related to applications, forms, motions, or appeals that require a fee payment should continue to be paid to the Department of Homeland Security or the BIA through current procedures. *See* 8 CFR 1003.24. Once expanded electronic filing is available at the BIA, EOIR expects electronic payments will be available for appeals and BIA motions that require a fee.

Dated: June 19, 2018.

Nathan Berkeley,

Acting Chief, CLAD.

[FR Doc. 2018–13578 Filed 6–22–18; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Charter Renewal

AGENCY: Justice Department.

ACTION: Notice of charter renewal of the Executive Advisory Board of the National Domestic Communications Assistance Center.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix, and Title 41 of the U.S. Code of Federal Regulations, section 101–6.1015, notice is hereby given that the Charter of the National Domestic Communications Assistance Center (NDCAC) Executive Advisory Board (EAB) has been renewed. The Charter is on file with the General Services Administration. The Attorney General determined that the NDCAC EAB is in the public interest and is necessary in connection with the performance of duties of the United States Department of Justice. These duties can best be performed through the advice and counsel of this group.

The purpose of the EAB is to provide advice and recommendations to the Attorney General or designee, and to the Director of the NDCAC that promote public safety and national security by advancing the NDCAC's core functions: law enforcement coordination with respect to technical capabilities and solutions, technology sharing, industry relations, and implementation of the Communications Assistance for Law Enforcement Act (CALEA). The EAB consists of 15 voting members from Federal, State, local and tribal law enforcement agencies. Additionally, there are two non-voting members as follows: A federally-employed attorney assigned to the NDCAC to serve as a legal advisor to the EAB, and the DOJ Chief Privacy Officer or designee to ensure that privacy and civil rights and civil liberties issues are fully considered in the EAB's recommendations. The EAB is composed of eight State, local, and/or tribal representatives and seven federal representatives.

The EAB functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The Charter has been filed in accordance with the provisions of the Act.

Alice Bardney-Boose,

Designated Federal Officer, National Domestic Communication Assistance Center, Executive Advisory Board.

[FR Doc. 2018–13555 Filed 6–22–18; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday, July 12, 2018, from 9:00 a.m. until 12:00 p.m., and Friday, July 13, 2018, from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at Constitution Center, 400 7th Street SW, Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** for room numbers.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities will be held on July 12, 2018, as follows: The policy discussion session (open to the public) will convene at 9:00 a.m. until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 10:30 a.m. until 12:00 p.m.

All Committee meetings will take place at Constitution Center. For specific room numbers, contact Caitlin Cater at (202) 606–8322 or *gencounsel@neh.gov.*

The plenary session of the National Council on the Humanities will convene on July 13, 2018, at 9:00 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Chairman's Remarks
2. Senior Deputy Chairman's Remarks
3. Presentation by guest speaker Lori Foley, Federal Emergency Management Agency
4. Congressional Affairs and Budget Reports
5. Office of Communications Report on New NEH Website
6. Reports on Policy and General Matters
a. Digital Humanities
b. Education Programs
c. Federal/State Partnership
d. Preservation and Access
e. Challenge Grants
f. Public Programs
g. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Caitlin Cater at (202) 606–8322 or *gencounsel@neh.gov.* Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: June 6, 2018.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2018–13689 Filed 6–22–18; 8:45 am]

BILLING CODE 7536–01–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 April 18, 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 of Collection: Grantee Reporting Requirements for the Engineering Research Centers (ERCs).

OMB Number: 3145–0220.

Type of Request: Intent to seek approval to renew an information collection.

Abstract:

Proposed Project: The Engineering Research Centers (ERC) program supports an integrated, interdisciplinary research environment to advance fundamental engineering knowledge and engineered systems; educate a globally competitive and diverse engineering workforce from K–12 on; and join academe and industry in partnership to achieve these goals. ERCs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

ERCs conduct world-class research with an engineered systems perspective that integrates materials, devices, processes, components, control algorithms and/or other enabling elements to perform a well-defined function. These systems provide a unique academic research and education experience that involves integrative complexity and technological realization. The complexity of the systems perspective includes the factors associated with its use in industry, society/environment, or the human body.

ERCs enable and foster excellent education, integrate research and education, speed knowledge/technology transfer through partnerships between academe and industry, and prepare a more competitive future workforce. ERCs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

Centers are required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, ERCs also are required to submit management and performance indicators annually to NSF via a data collection website that is managed by a technical assistance contractor. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of cash and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the ERC effort. Such reporting requirements will be included in the cooperative agreement which is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of activities: (1) Vision and impact, (2) strategic plan, (3) research program, (4) innovation ecosystem and industrial collaboration, (5) education, (6) infrastructure (leadership, management, facilities, diversity) and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, progress toward center goals, problems the Center has encountered in making progress towards goals and how they were overcome, plans for the future and anticipated research and other barriers to overcome in the following year, and specific outputs and outcomes.

Use of the Information: The data collected will be used for NSF internal reports, historical data, performance review by peer site visit teams, program level studies and evaluations, and for securing future funding for continued ERC program maintenance and growth.

Estimate of Burden: 150 hours per center for 17 centers for a total of 2,550 hours.

Respondents: Academic institutions.

Estimated Number of Responses per Report: One from each of the 17 ERCs.

Dated: June 19, 2018.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2018–13482 Filed 6–22–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0110]

Report to Congress on Abnormal Occurrences; Fiscal Year 2017 Dissemination of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–0090, Volume 40, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2017.'' The report describes those events that the NRC or an Agreement State identified as abnormal occurrences (AOs) during fiscal year (FY) 2017, based on the criteria defined in the report. The report describes six events at Agreement State-licensed facilities and five events at an NRC-licensed facilities.

DATES: NUREG–0090, Volume 40, is available June 25, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0110 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0110. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Vered Shaffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 630–829–9862, email: *Vered.Shaffer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Section 208 of the Energy Reorganization Act of 1974, as amended (Pub. L. 93–438), defines an ''abnormal occurrence'' (AO) as an unscheduled incident or event that the NRC determines to be significant from the standpoint of public health or safety.

The AO report (ADAMS Accession No. ML18157A051), describes those events that the NRC identified as AOs during FY 2017, based on the criteria defined in Appendix A of the report.

The report describes six events at Agreement State-licensed facilities and five events at an NRC-licensed facilities. All 11 events occurred at medical facilities and are ''medical events'' as defined in part 35 of title 10 of the *Code of Federal Regulations* (10 CFR).

Agreement States are the 37 U.S. States that currently have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (AEA), to regulate certain quantities of AEA-licensed material at facilities located within their borders.

The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–66) requires that AOs be reported to Congress annually. The full report, NUREG–0090, Volume 40, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2017,'' is also available electronically at the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.*

Dated at Rockville, Maryland, this 19th day of June 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2018–13509 Filed 6–22–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–113; NRC–2018–0112]

Pennsylvania State University

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a renewal of special nuclear materials (SNM) License No. SNM–95 held by the Pennsylvania State University (PSU), University Park, Pennsylvania, to possess and use SNM for education, research, and training programs. The renewed license authorizes PSU to continue to possess and use SNM for an additional 10 years from the date of issuance.

DATES: Renewed License SNM–95 was issued on April 24, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0112 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0112. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Merritt N. Baker, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7119; email: *Merritt.Baker@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Pursuant to section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of renewal of License SNM–95 to PSU, which authorizes PSU to possess and use SNM for education, research, and training programs at its campus in University Park, Pennsylvania. This licensee's original request for renewal of its license was made on September 23, 2013 (ADAMS Accession No. ML13273A207). Because the licensed material will be used for research, development, and for educational purposes, renewal of License SNM–95 is an action that is categorically excluded from a requirement to prepare an environmental assessment or environmental impact statement, pursuant to 10 CFR 51.22(c)(14)(v). A notice of receipt of the license renewal application with an opportunity to request a hearing and petition for leave to intervene was published in the **Federal Register** on February 2, 2015 (80 FR 5580). The NRC did not receive a request for a hearing or for a petition for leave to intervene. This license renewal complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the NRC's rules and regulations as set forth in 10 CFR chapter 1. Accordingly, the license renewal was issued on April 24, 2018, and was effective immediately.

The NRC prepared a safety evaluation report for the renewal of License SNM–95 and concluded that the licensee can continue to operate the facility without endangering the health and safety of the public.

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS accession numbers as indicated.

Document	ADAMS accession No.
Penn State Request for Renewal Application	ML13273A207
Penn State Resubmitted Renewal Application	ML14219A483
NRC Request for Additional Information	ML15183A349
PSU Response to Request for Additional Information	ML15224A545
Transmittal of PSU License Renewal (SNM-95)	ML16336A260
Safety Evaluation Report for PSU License Renewal	ML16336A226
SNM–95 Penn State Materials License	ML16336A223

Dated at Rockville, Maryland, this 20th day of June 2018.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–13547 Filed 6–22–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–181 and CP2018–255; MC2018–182 and CP2018–256; MC2018–183 and CP2018–257]

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:* June 27, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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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 requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–181 and CP2018–255; *Filing Title:* USPS Request to Add Priority Mail Express Contract 63 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 19, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* June 27, 2018.

2. *Docket No(s).:* MC2018–182 and CP2018–256; *Filing Title:* USPS Request to Add Priority Mail Contract 449 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 19, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* June 27, 2018.

3. *Docket No(s).:* MC2018–183 and CP2018–257; *Filing Title:* USPS Request to Add Priority Mail Contract 450 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 19, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* June 27, 2018.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2018–13584 Filed 6–22–18; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 25, 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 June 19, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 449 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–182, CP2018–256.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–13480 Filed 6–22–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 25, 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 June 19, 2018, it filed with the Postal Regulatory

Commission a *USPS Request to Add Priority Mail Contract 450 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–183, CP2018–257.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–13481 Filed 6–22–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express 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:* June 25, 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 June 19, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 63 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–181, CP2018–255.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–13479 Filed 6–22–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on June 28, 2018 at 10 a.m.

PLACE: The meeting will be held in the Auditorium, Room LL–002 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 10 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *http://www.sec.gov.*

MATTERS TO BE CONSIDERED: The subject matters of the Open Meeting will be the Commission's consideration of:

- Whether to adopt amendments to the definition of ''smaller reporting company'' and other rules and forms in light of the new definition.
- whether to adopt amendments to rules and forms to require the use of the Inline eXtensible Business Reporting Language (XBRL) format for the submission of operating company financial statement information and fund risk/return summary information and related changes.
- whether to propose rule 6c–11 under the Investment Company Act of 1940 that would permit exchange-traded funds that satisfy certain conditions to operate without first obtaining an exemptive order from the Commission, as well as related form amendments.
- whether to adopt amendments to Form N–PORT and Form N–1A related to disclosures of liquidity risk management for open end management investment companies.
- whether to propose amendments to the Commission's existing rules that govern the whistleblower award program.
- whether the Commission should enter into a revised memorandum of understanding with the Commodity Futures Trading Commission that would update and supersede the existing regulatory coordination memorandum of understanding between the two agencies.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 20, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–13623 Filed 6–21–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83475; File No. 265–30]

Fixed Income Market Structure Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting.

SUMMARY: The Securities and Exchange Commission Fixed Income Market Structure Advisory Committee is providing notice that it will hold a public meeting on Monday, July 16, 2018, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC. The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. The public portions of the meeting will be webcast on the Commission's website at *www.sec.gov.* Persons needing special accommodations to take part because of a disability should notify the contact persons listed below. The public is invited to submit written statements to the Committee. The meeting will include updates and presentations from the subcommittees.

DATES: The public meeting will be held on Monday, July 16, 2018. Written statements should be received on or before July 11, 2018.

ADDRESSES: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC. Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rule-comments@sec.gov.* Please include File Number 265–30 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–30. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Commission's internet website at SEC website at (*http://www.sec.gov/comments/265-30/265-30.shtml*).

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: David Dimitrious, Senior Special Counsel, at (202) 551–5131, or Benjamin Bernstein, Attorney-Adviser, at (202) 551–5354, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, and the regulations thereunder, Brett Redfearn, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: June 20, 2018.

Brent J. Fields,

Committee Management Officer.

[FR Doc. 2018–13539 Filed 6–22–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83464; File No. SR–ISE–2018–55]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Box and Butterfly Spread Protections

June 19, 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 June 7, 2018, Nasdaq ISE, LLC (''ISE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new order type protections, Butterfly and Box Spread protections, for Complex Order [3] strategy trades.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Adopt Complex Order protections for Butterfly and Box Spread protections for Complex Order strategies; and (ii) reorganize and amend the existing Complex Order protections currently contained within .07 of Supplementary Material to Rule 722 and Rule 714. These amendments will be described in greater detail below. This rule change is similar to protections, which exist today on Nasdaq Phlx LLC (''Phlx'').[4]

Adopt Butterfly and Box Spread Protections

Today, ISE members may submit Butterfly and Box spreads into the System. ISE proposes to define a Butterfly spread as a three legged Complex Order with certain characteristics.[5] The Exchange is proposing to reject Butterfly spreads which are outside of certain parameters to avoid potential executions at prices that exceed the minimum and maximum possible intrinsic value of the spread by a specified amount. Additionally, ISE proposes to define a Box spread as a four legged Complex Order with certain characteristics.[6] The Exchange is proposing to reject Box spreads which are outside of certain parameters to avoid potential executions at prices that exceed the minimum and maximum possible intrinsic value of the spread by a specified amount. Today, the Exchange offers similar order protection features for Complex Orders such as Vertical and Calendar Spread Protections [7] to avoid erroneous trades.

Butterfly Spread Protection

As noted above, the Exchange proposes to adopt a Butterfly Spread Protection. A Butterfly Spread is a three legged Complex Order with the following: (1) Two legs to buy (sell) the same number of calls (puts); (2) one leg to sell (buy) twice the number of calls (puts) with a strike price at mid-point of the two legs to buy (sell); (3) all legs have the same expiration; and (4) each leg strike price is equidistant from the next sequential strike price. With this protection, a Butterfly Spread Limit Order that is priced higher than the Maximum Value (defined below) or lower than the Minimum Value (defined below) will be rejected. A Butterfly Spread Market Order (or Butterfly Spread Limit Order entered with a net price inside the Butterfly Spread Protection Range) to Buy (Sell) will be restricted from executing by legging into the single leg market with a net price higher (lower) than the Maximum (Minimum) Value. The Butterfly Spread Protection Range is the absolute difference between the Minimum Value and the Maximum Value.

ISE's proposal continues to protect Butterfly Spreads from legging into the single leg market(s), similar to Phlx Rule 1098(i), at a price higher than the Maximum Value for buy orders and lower than the Minimum Value for sell orders. ISE's proposal differs from Phlx in that ISE allows legging below the Minimum Value for buys and above the Maximum Value for sells at a price made available by the synthetic (cIBBO) market outside of the Butterfly Spread Protection Range.[8]

The Exchange believes that these limitations, which exist today for ISE Vertical and Calendar Spreads,[9] are consistent with the Act because the limits permit buying below the minimum and selling above the maximum thereby allowing buyers and sellers to achieve better prices without taking on additional risk. The intrinsic value for the Butterfly Spread that could be achieved when closing the position would not be negatively impacted in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A complex order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. *See* ISE Rule 722(a)(1).

[4] This rule change is similar to Phlx Rule 1098(i) and (j).

[5] This strategy utilizes a combination of either all calls or all puts of the same expiration date in the same underlying to limit risk.

[6] This strategy utilizes a combination of put/call pairs of options with the same expiration date in the same underlying to limit risk.

[7] *See* Supplementary Material .07(c) to ISE Rule 722.

[8] Allowing sell orders to trade by legging into the simple market at prices above the Maximum Value (buy orders below the Minimum Value) offers an opportunity for sellers/buyers to receive a premium beyond the potential intrinsic value of the spread without creating risk for the Complex Order Book.

[9] *Id.*

this case because the limitation permits price improvement. The Exchange notes, however, that in certain situations, market participants willingly want to execute certain trading strategies even if such trades occur outside their intrinsic value or at seemingly erroneous prices (*e.g.,* negative price).[10] The Exchange believes it is appropriate to provide market participants flexibility to allow them to execute these trading strategies and therefore to adopt a buffer to permit the execution of such trading strategies. The Exchange believes it is reasonable to adopt a buffer to give the Exchange the ability to adjust the pre-set value uniformly across all options classes in the event the Exchange believes a different pre-set value is more appropriate. Finally, the Exchange notes that it provides these protections for the benefit of, and in consultation with, its Members. The Exchange believes the proposed rule change will help the Exchange to maintain a fair and orderly market, and provide a valuable service to investors.

The Initial Maximum Value shall be the distance between the strike price of the leg with the mid-point strike price and either of the outer leg strike prices. The Maximum Value Buffer is the lesser of a configurable absolute dollar value or percentage of the Initial Maximum Value set by the Exchange and announced via a notice to members. The Exchange intends to set the Maximum Value Buffer at zero initially. The Maximum Value is calculated by adding the Initial Maximum Value and Maximum Value Buffer.

The Initial Minimum Value shall be zero. The Minimum Value Buffer is a configurable absolute dollar value set by the Exchange and announced via a notice to members. The Exchange intends to set the Minimum Value Buffer at zero initially. The Exchange would monitor the zero value, including feedback from market participants, in determining whether the value is set at the appropriate level. The decision to change the buffer could stem from participant concern for their ability to close out positions. The Minimum Value is calculated by subtracting the Minimum Value Buffer from the Initial Minimum Value of zero. There are circumstances where the Minimum Value may be less than zero.[11]

The Butterfly Spread Protection would apply throughout the trading day, including pre-market, during the Opening Process and during a trading halt. Unlike Phlx, but similar to ISE Vertical and Calendar spreads,[12] these protections will not apply to Complex Orders being auctioned in the Facilitation, Solicitation, Price Improvement mechanism and associated auction responses. Also, today, the Vertical and Calendar spreads do not apply to Customer Cross Orders.[13] The Exchange is adding Customer Cross Orders to the list of excluded order types that are not protected by the Vertical, Calendar, Box or Butterfly spread protections. Complex orders executed in these mechanisms are two-sided orders where the contra-side order is willing to trade with the agency order at an agreed upon price thus removing the risk that the order was executed erroneously outside its intrinsic value. Similarly, a Customer Cross Order is a two-sided order where the contra-side order is willing to trade with the agency order at an agreed upon price. The Exchange believes that because paired orders are negotiated in advance by both parties it is unlikely that the parties would agree to transact at prices that would necessitate the protections proposed within the Butterfly Spread Protection.

Below is an example of the application of this protection.

Example 1

Assume the following Complex Order legs for a Butterfly Spread:

1. Buy 1 NDX 6960 Jan 26 Call (33.70 × 34.60)
2. Sell 2 NDX 6970 Jan 26 Calls (27.00 × 27.90)
3. Buy 1 NDX 6980 Jan 26 Call (28.40 × 29.50)

The derived net ISE Complex Order market (''cIBBO'') is 6.30 × 10.10[14]

Assume both the Maximum Value Buffer and Minimum Value Buffer are 0.00

Minimum Value = 0.00

- Initial Minimum Value: 0.00
- Minimum Value Buffer: 0.00
- Minimum Value: 0.00 − 0.00 = 0.00

Maximum Value = 10

- Initial Maximum Value: 6970 (middle leg strike price) − 6960 (outer leg strike price) = 10.00
- Maximum Value Buffer: 0.00
- Maximum Value: 10.00 (Initial Maximum Value) + 0.00 (Maximum Value Buffer) = 10.00

An incoming order to buy the spread defined above for 10.10 will be rejected because the purchase price of 10.10 is greater than the Maximum Value of 10.00.

Example 2

Assume the following Complex Order legs for a Butterfly Spread:

1. Buy 1 NDX 6960 Jan 26 Call (33.70 × 34.60)
2. Sell 2 NDX 6970 Jan 26 Calls (27.00 × 27.90)
3. Buy 1 NDX 6980 Jan 26 Call (28.40 × 29.45)

The derived net ISE Complex Order market (''cIBBO'') is 6.30 × 10.05[15]

Assume both the Maximum Value Buffer and Minimum Value Buffer are 0.05

Minimum Value = −0.05

- Initial Minimum Value: 0.00
- Minimum Value Buffer: 0.05
- Minimum Value: 0.00 − 0.05 = −0.05

Maximum Value = 10.05

- Initial Maximum Value: 6970 (middle leg strike price) − 6960 (outer leg strike price) = 10.00
- Maximum Value Buffer: 0.05
- Maximum Value: 10.00 (Initial Maximum Value) + 0.05 (Maximum Value Buffer) = 10.05

An incoming order to buy the spread defined above for 10.05 will be accepted and executed against the simple market because the purchase price of 10.05 is equal to the Maximum Value 10.05.

[10] A small incremental allowance outside of the Minimum/Maximum Value allows for a small premium to offset commissions associated with trading and may incentivize participants to take the other side of spreads trading at or slightly outside of the intrinsic value. For the participant looking to close out their position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. The purpose of this rule change is not to impede current order handling but to ensure execution prices are within a reasonable range of minimum and maximum values.

[11] For example, market participants who desire to trade out of positions at intrinsic value may not find a contra-side willing to trade without a premium. A small incremental allowance outside of the minimum/maximum value allows for a small premium to offset commissions associated with trading and may incentivize participants to take the other side of spreads trading at intrinsic value. For the participant looking to close out their position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery.

[12] *See* ISE Rule 722 at Supplementary Material .07(c).

[13] A Customer Cross Order is comprised of a Priority Customer Order to buy and a Priority Customer Order to sell at the same price and for the same quantity. *See* ISE Rule 715(i).

[14] The cIBBO is calculated by deriving the synthetic bid and offer available in the simple market with the ratio of each option leg of the spread considered. The 6.30 number is arrived at by multiplying (1 * 33.70) then subtracting (2 * 27.90) and adding (1 * 28.40). The 10.10 number is derived by multiplying (1 * 34.60) then subtracting (2 * 27.00) and adding (1 * 29.50).

[15] The cIBBO is calculated by deriving the synthetic bid and offer available in the simple market with the ratio of each option leg of the spread considered.

Phlx has a similar protection in place today.[16]

Box Spread Protection

As noted above, the Exchange proposes to adopt a Box Spread Protection. A Box Spread is a four legged Complex Order with the following: (1) One pair of legs with the same strike price with one leg to buy a call (put) and one leg to sell a put (call); (2) a second pair of legs with a different strike price from the pair described in (1) with one leg to sell a call (put) and one leg to buy a put (call); (3) all legs have the same expiration; and (4) all legs have equal volume. With this protection, a Box Spread Limit Order that is priced higher than the Maximum Value or lower than the Minimum Value will be rejected. A Box Spread Market Order (or Box Spread Limit Order entered with a net price inside the Box Spread Protection Range) to Buy (Sell) will be restricted from executing by legging into the single leg market with a net price higher (lower) than the Maximum (Minimum) Value. The Box Spread Protection Range is the absolute difference between the Minimum Value and the Maximum Value.

ISE's proposal continues to protect Box Spreads from legging into the single leg market(s), similar to Phlx Rule 1098(j), at a price higher than the Maximum Value for buy orders and lower than the Minimum Value for sell orders. ISE's proposal differs from Phlx in that ISE allows legging below the Minimum Value for buys and above the Maximum Value for sells at a price made available by the synthetic (cIBBO) market outside of the Box Spread Protection Range.[17]

The Exchange believes that these limitations, which exist today for ISE Vertical and Calendar Spreads,[18] are consistent with the Act because the limits permit buying below the minimum and selling above the maximum thereby allowing buyers and sellers to achieve better prices without taking on additional risk. The intrinsic value for the Box Spread that could be achieved when closing the position would not be negatively impacted in this case because the limitation permits price improvement as noted above for Butterfly Spreads.

The Initial Maximum Value shall be the distance between the strike prices of each pair of leg strike prices. The Maximum Value Buffer is the lesser of a configurable absolute dollar value or percentage of the Initial Maximum Value set by the Exchange and announced via a notice to members. The Exchange intends to set the Maximum Value Buffer at zero initially. The Maximum Value is calculated by adding the Initial Maximum Value and Maximum Value Buffer.

The Initial Minimum Value shall be zero. The Minimum Value Buffer is a configurable absolute dollar value set by the Exchange and announced via a notice to members. The Exchange intends to set the Minimum Value Buffer at zero initially. The Minimum Value is calculated by subtracting the Minimum Value Buffer from the Initial Minimum Value of zero.

The Box Spread Protection would apply throughout the trading day, including pre-market, during the Opening Process and during a trading halt. The protections will not apply to Complex Orders in the Facilitation, Solicitation, Price Improvement mechanism and associated auction responses. The Box Spread Protection will also not apply to Customer Cross Orders. Unlike Phlx, but similar to ISE Vertical and Calendar spreads,[19] these protections will not apply to Complex Orders being auctioned in the Facilitation, Solicitation, Price Improvement mechanism and associated auction responses. Also, today, the Vertical and Calendar spreads do not apply to Customer Cross Orders. The Exchange is adding Customer Cross Orders to the list of excluded order types that are not protected by the Vertical, Calendar, Box or Butterfly spread protections. Complex orders executed in these mechanisms are two-sided orders where the contra-side order is willing to trade with the agency order at an agreed upon price thus removing the risk that the order was executed erroneously outside its intrinsic value. Similarly, a Customer Cross Order is a two-sided order where the contra-side order is willing to trade with the agency order at an agreed upon price. The Exchange believes that because paired orders are negotiated in advance by both parties it is unlikely that the parties would agree to transact at prices that would necessitate the protections proposed within the Box Spread Protections.

Example 1

Assume the following Complex Order pairs for a Box Spread:

1. Pair A
   a. Buy 1 NDX 6960 Jan 26 Call (30.80 × 34.05)
   b. Sell 1 NDX 6960 Jan 26 Put (33.50 × 36.00)
2. Pair B
   a. Sell 1 NDX 6970 Jan 26 Call (27.50 × 29.00)
   b. Buy 1 NDX 6970 Jan 26 Put (36.40 × 37.05)

The derived net ISE Complex Order market (''cIBBO'') is 2.20 × 10.10[20]

Assume both Maximum Value Buffer and Minimum Value Buffer are 0.00

Minimum Value = 0.00

- Initial Minimum Value: 0.00
- Minimum Value Buffer: 0.00
- Minimum Value: 0.00 − 0.00 = 0.00

Maximum Value = 10.00

- Initial Maximum Value: 6970 (Pair A strike price) − 6960 (Pair B strike price) = 10.00
- Maximum Value Buffer: 0.00
- Maximum Value: 10.00 (Initial Maximum Value) + 0.00 (Maximum Value Buffer) = 10.00

An incoming order to buy the spread defined above for 10.10 will be rejected because the purchase price of 10.10 is greater than the Maximum Value of 10.00.

Example 2

Assume the following Complex Order pairs for a Box Spread:

1. Pair A
   a. Buy 1 NDX 6960 Jan 26 Call (30.80 × 34.05)
   b. Sell 1 NDX 6960 Jan 26 Put (33.50 × 36.50)
2. Pair B
   a. Sell 1 NDX 6970 Jan 26 Call (27.50 × 30.75)
   b. Buy 1 NDX 6970 Jan 26 Put (36.40 × 37.05)

The derived net ISE Complex Order market (''cIBBO'') is −0.05 × 10.10[21]

Assume both Maximum Value Buffer and Minimum Value Buffer are 0.05

Minimum Value = −0.05

- Initial Minimum Value: 0.00
- Minimum Value Buffer: 0.05
- Minimum Value: 0.00 − 0.05 = −0.05

Maximum Value = 10.05

- Initial Maximum Value: 6970 (Pair

[16] *See* Securities and Exchange Act Release No. 83033 (April 11, 2018), 83 FR 16907 (April 17, 2018) (SR–Phlx–2018–14).

[17] Allowing sell orders to trade by legging into the simple market at prices above the Maximum Value (buy orders below the Minimum Value) offers an opportunity for sellers/buyers to receive a premium beyond the potential intrinsic value of the spread without creating risk for the Complex Order Book.

[18] *See* Supplementary Material .07(c) to ISE Rule 722.

[19] *Id.*

[20] The cIBBO is calculated by deriving the synthetic bid and offer available in the simple market with the ratio of each option leg of the spread considered.

[21] The cIBBO is calculated by deriving the synthetic bid and offer available in the simple market with the ratio of each option leg of the spread considered.

A strike price) − 6960 (Pair B strike price) = 10.00
- Maximum Value Buffer: 0.05
- Maximum Value: 10.00 (Initial Maximum Value) + 0.05 (Maximum Value Buffer) = 10.05

An incoming order to sell the spread defined above for −0.05 will be accepted and executed against the simple market because the purchase price of -0.05 is equal than the Minimum Value of −0.05. Phlx has a similar protection in place today.[22]

Reorganize and Amend Supplementary Material .07 to Rule 722

The Exchange proposes to reorganize and amend Supplementary Material .07 to Rule 722 which is entitled ''Price limits for complex order and quotes.'' The Exchange proposes to rename .07 as ''Complex Order Protections.'' The Exchange proposes to list all available Complex Order protections on ISE within Supplementary Material .07 to Rule 722.

Universal Changes

The Exchange proposes to reorder the rule and title subsection ''a'' as ''Price limits for Complex Orders and quotes.'' The Exchange is proposing to capitalize defined terms throughout this section for consistency. The Exchange removed cross-references that are no longer necessary with the reorganization. The Exchange proposes to re-letter and renumber this section to accommodate all the price protections. The Exchange also proposes adding titles throughout .07 to add more context to the rules. Proposed Supplementary Material to Rule 722 at .07(b) shall be titled, ''Strategy Protections.'' Proposed Supplementary Material to Rule 722 at .07(c) shall be titled, ''Other Price Protections which apply to Complex Orders.''

Price Limits

With respect to the price limits specified in proposed Rule 722 at Supplementary Material .07(a)(1) the Exchange proposes a substantive amendment to revise the second sentence which currently provides, ''Notwithstanding, the System will not permit any leg of a complex order to trade through the NBBO for the series by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange on a class or series basis.'' The Exchange originally filed this rule to permit ISE to configure settings for this protection on a class or series basis. The Exchange proposes to amend the ability to configure settings. Similar to the proposed Butterfly and Box Spread protections, the Exchange proposes to apply the settings uniformly across all classes.

Strategy Protections

The Exchange proposes introducing ISE Rule 722 at Supplementary Material .07(b) with the following text, ''The following protections will apply throughout the trading day, including pre-market, during the Opening Process and during a trading halt.'' Today, the Vertical and Calendar Spread Protections apply throughout the trading day, including pre-market, during the Opening Process and during a trading halt. The Exchange provides for no limitations in the Vertical and Calendar Spread Protections with respect to any limitations during specific trading sessions. The Exchange also does not intend for such limitations to apply for Box and Butterfly Spread Protections. The Exchange believes that adding this affirmative language will simply serve to remove any confusion on whether the protections do not apply during a specific trading session.

The Exchange also proposes to add another sentence to the introduction of new section (b) which provides ''The protections will not apply to Complex Orders being auctioned and auction responses in the Facilitation Mechanism, Solicited Order Mechanism, and Price Improvement Mechanism and will not apply to Customer Cross Orders.'' Today, the protections for Vertical Spread Protection and Calendar Spread Protections do not apply to Complex Orders being auctioned and auction responses in the Facilitation Mechanism, Solicited Order Mechanism, and Price Improvement Mechanism and Customer Cross Orders.[23] The Exchange is proposing these same limitations for Box and Butterfly Spreads. Complex orders executed in these mechanisms are two-sided orders where the contra-side order is willing to trade with the agency order at an agreed upon price thus removing the risk that the order was executed erroneously outside its intrinsic value.

Vertical Spread Protections

The Exchange proposes amending ISE Rule 722 at Supplementary Material .07(b)(1), similar to the Box and Butterfly Spread protections, to begin the section with the same conforming language indicating which strategy the Vertical Spread Protection applies to and also relocating the definition of a Vertical Spread to the initial paragraph. The Exchange is amending proposed ISE Rule 722 at Supplementary Material .07(b)(1)(A) to relocate the language in current Rule 722 at Supplementary Material .07(c)(4)(i)[24] and .07(c)(5)[25] into the actual paragraph rather than referring back to the paragraph.[26] The Exchange proposes the following rule text, ''The Exchange will set a common pre-set value not to exceed $1.00 to be applied uniformly across all classes. The Exchange may amend the pre-set value uniformly across all classes'' at proposed ISE Rule 722 at Supplementary Material .07(b)(1)(A).

The Exchange notes that proposed ISE Rule 722 at Supplementary Material .07(b)(1)(B) already has a sentence which states, ''The pre-set value is the lesser of an absolute amount and a percentage of the difference between the strike prices.'' Instead of also relocating ISE Rule 722 at Supplementary Material .07(c)(4)(ii) and (c)(5) into the actual paragraph, the Exchange proposes to remove the current sentence, ''The pre-set value is the lesser of an absolute amount and a percentage of the difference between the strike prices'' and instead combine ISE Rule 722 at Supplementary Material .07(c)(4)(ii)[27] and (c)(5).[28] The Exchange proposes to state ''The pre-set value used by the vertical spread check will be the lesser of (1) an absolute amount not to exceed $1.00 and (2) a percentage of the difference between the strike prices not to exceed 10% to be applied uniformly across all classes. The Exchange may amend the pre-set value uniformly across all classes.'' The Exchange

[22] *See* note 4 above.

[23] The current rule text does not include Customer Cross Orders, however, today, the Vertical and Calendar spread protections do not apply to Customer Cross Orders.

[24] Rule 722 at Supplementary Material .07(c)(4)(i) provides, ''For purposes of the price protections set forth in paragraphs (c)(1) and (c)(3), the Exchange will set a common pre-set value not to exceed $1.00 to be applied uniformly across all classes.''

[25] Rule 722 at Supplementary Material .07(c)(5) provides ''The Exchange may change the pre-set values established in paragraph (c)(4) in accordance with the parameters set forth therein from time to time uniformly across all classes.''

[26] The words, ''For purposes of the price protections set forth in paragraphs (c)(1) and (c)(3)'' and ''established in paragraph (c)(4) in accordance with the parameters set forth therein from time to time'' are not being carried into the rule text as they are no longer necessary.

[27] ISE Rule 722 at Supplementary Material .07(c)(4)(ii) provides ''For purposes of the price protections set forth in paragraph (c)(2), the Exchange will set common pre-set values of (1) an amount not to exceed $1.00 and (2) a percentage of the difference between strike prices not to exceed 10% to be applied uniformly across all classes.''

[28] ISE Rule 722 at Supplementary Material .07(c)(5) provides, ''The Exchange may change the pre-set values established in paragraph (c)(4) in accordance with the parameters set forth therein from time to time uniformly across all classes.''

believes that this proposed rule text more efficiently explains the relevant provisions and removes unnecessary text.

Calendar Spread Protections

The Exchange proposes amending ISE Rule 722 at Supplementary Material .07(b)(2), similar to the Box and Butterfly Spread protections, to begin the section with the same conforming language indicating which strategy the Calendar Spread Protection applies to and also relocating the definition of a Calendar Spread to the initial paragraph. The Exchange is also relocating language in current Rule 722 at Supplementary Material .07(c)(4)(i) into the actual paragraph rather than referring back to the paragraph.[29] The Exchange also proposes to relocate current Rule 722 at Supplementary Material .07(c)(5) into proposed ISE Rule 722 at Supplementary Material .07(b)(2) and amending the language to conform to the text in the remainder of the rule.[30] The Exchange proposes to eliminate the remainder of the rule text currently in Supplementary Material to Rule 722 at .07(c)(4)(i) and (ii) and .07(c)(5) because the language has been relocated within the proposed text as described herein.

Other Price Protections

The Exchange proposes to add to ISE Rule 722 new Supplementary Material .07(c) entitled ''Other Price Protections which apply to Complex Orders'' and relocate Limit Order Price Protection to .07(c)(1).[31] The Exchange proposes to relocate Size Limitation to ISE Rule 722 at Supplementary Material .07(c)(2).[32] Finally, the Exchange proposes to relocate Price Level Protection from Rule 714(b)(4) to Rule 722 at Supplementary Material .07(c)(3). The Exchange proposes to remove the first sentence which provides, ''This protection shall apply to Complex Orders'' because this rule is not within a Complex Order rule currently and will not need that indication once the rule text is relocated to Rule 722. The Exchange also proposes to amend the last sentence of that rule which currently provides, ''The number of price levels for the component leg, which may be between one (1) and ten (10), is determined by the Exchange from time-to-time on a class-by-class basis.'' The Exchange believes indicating between one and ten could be misleading because the setting could be numbers 1 and 10 so ''from one (1) to ten (10)'' is being proposed to make that more clear.

Rule 714

Finally, the Exchange proposes to amend Rule 714(b) to make clear that the protections in that rule apply to single leg orders. The Exchange is placing protections for Complex Orders into Rule 722 and relocating the Price Level Protection rule[33] related to Complex Orders. The additional clarifying language to single leg and cross-reference to Supplementary Material .07 to ISE Rule 722 should make clear to Members where the various price protections are located.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[34] in general, and furthers the objectives of Section 6(b)(5) of the Act,[35] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by offering protections for certain Complex Orders which restrict executions that exceed the intrinsic value of the spread by a specified (or configurable) amount. Further, the Exchange believes that its proposal will mitigate risks to market participants. Specifically, ISE believes that the change, which is responsive to member input, will facilitate transactions in securities and perfect the mechanism of a free and open market by providing its Members with additional functionality that will assist them with managing their risk by checking each Complex Order that is either a Butterfly or Box spread against certain parameters described within the filing before accepting the Complex Orders into the order book.

The Exchange believes that the parameters described herein, including parameters which will be configured by the Exchange, will protect members from executing orders too far outside the Minimum Value and Maximum Value which considers the intrinsic value of the strategy, thereby promoting fair and orderly markets and the protection of investors. The Exchange intends to offer a buffer allowance from the minimum/maximum values permitted for the execution of these strategy orders to allow market participants flexibility to manage their business and accommodate executions outside of this range. The Exchange would monitor the zero value, including feedback from market participants, in determining whether the value is set at the appropriate level. The decision to change the buffer could stem from participants' concern for their ability to close out positions. There are circumstances where the Minimum Value may be less than zero. For example, market participants who desire to trade out of positions at intrinsic value may not find a contra-side willing to trade without a premium. A small incremental allowance outside of the minimum/maximum value allows for a small premium to offset commissions associated with trading and may incentivize participants to take the other side of spreads trading at intrinsic value. For the participant looking to close out their position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. The purpose of this rule change is not to impede current order handling but to ensure execution prices are within a reasonable range of minimum and maximum values.

These protections are very similar to protections on Phlx.[36] ISE's proposal continues to protect Butterfly and Box Spreads from legging into the single leg market(s), similar to Phlx Rule 1098(i) and (j), at a price higher than the Maximum Value for buy orders and lower than the Minimum Value for sell orders. Further, ISE's proposal differs from Phlx in that ISE allows legging below the Minimum Value for buys and above the Maximum Value for sells at a price made available by the synthetic (cIBBO) market outside of the Butterfly and Box Spread Ranges, The Exchange believes that these limitations, which exist today for ISE Vertical and Calendar Spreads,[37] are consistent with the Act because the limits permit buying below the minimum and selling above the maximum thereby allowing buyers and sellers to achieve better prices without

[29] The words, ''For purposes of the price protections set forth in paragraphs (c)(1) and (c)(3)'' are not being carried into the rule text as they are no longer necessary.

[30] Currently, the rule text provides ''The Exchange may change the pre-set values established in paragraph (c)(4) in accordance with the parameters set forth therein from time to time uniformly across all classes.'' The Exchange proposes to state ''The Exchange may amend the pre-set value uniformly across all classes.''

[31] Limit Order Price Protection is currently at ISE Rule 722 at Supplementary Material .07(d).

[32] Size Limitation is currently at ISE Rule 722 at Supplementary Material .07(e).

[33] As noted above the Price Level Protection rule is being relocated to ISE Rule 722 at Supplementary Material .07(c)(3).

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

[36] *See* Phlx Rule 1098(i) and (j).

[37] *See* Supplementary Material .07(c) to ISE Rule 722.

taking on additional risk.[38] The intrinsic value for the Box Spread and the Butterfly Spread that could be achieved when closing the position would not be negatively impacted in this case because the limitation permits price improvement as noted above for Box Spreads and Butterfly Spreads.

The Exchange's proposal to exclude the Butterfly and Box Spread Protections from Complex Orders being auctioned and auction responses in the Facilitation Mechanism, Solicited Order Mechanism, and Price Improvement Mechanism is consistent with the Act because it conforms to the behavior of other protections on ISE protection including the protections for Vertical Spread and Calendar Spreads. Complex Orders executed in these mechanisms are two-sided orders where the contra-side order is willing to trade with the agency order at an agreed upon price thus removing the risk that the order was executed erroneously outside its intrinsic value. The Box and Butterfly Spread Protection will also not apply to Customer Cross Orders. Unlike Phlx, but similar to ISE Vertical and Calendar spreads,[39] these protections will not apply to Complex Orders being auctioned in the Facilitation, Solicitation, Price Improvement mechanism and associated auction responses. Also, today, the Vertical and Calendar spreads do not apply to Customer Cross Orders. The Exchange is adding Customer Cross Orders to the list of excluded order types that are not protected by the Vertical, Calendar, Box or Butterfly Spread Protections. Complex orders executed in these mechanisms are two-sided orders where the contra-side order is willing to trade with the agency order at an agreed upon price thus removing the risk that the order was executed erroneously outside its intrinsic value. Similarly, a Customer Cross Order is a two-sided order where the contra-side order is willing to trade with the agency order at an agreed upon price. The Exchange believes that because paired orders are negotiated in advance by both parties it is unlikely that the parties would agree to transact at prices that would necessitate the protections proposed within the Box and Butterfly Spread Protections.

The Exchange believes that the proposed amendments to Supplementary Material .07 to ISE Rule 722 further clarify the existing rules and conform the structure of the rules to the proposed Butterfly and Box Spread protections. The Exchange believes that reorganizing Supplementary Material .07 to ISE Rule 722 by adding titles, capitalizing defined terms, reorganizing the letters and numbers and consolidating text will protect investors and the public interest by adding greater transparency to the rules. The Exchange also notes that it is adding clarifying language to the rule text and relocating the Price Level Protection from Rule 714, which concerns single leg protections to Rule 722 at Supplementary Material .07, which concerns Complex Order protections. The Exchange believes that amending proposed Supplementary Material .07(a)(1) to ISE Rule 722 to apply the setting[40] uniformly across all markets rather than on a class or series basis will align this protection to the manner in which all other protections are applied for Complex Orders. The Exchange believes that uniformly applying the setting is consistent with the Act because it will apply the protection in the same manner regardless of class.

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. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all Complex Orders, which are either Butterfly or Box spreads entered by any ISE Member. Further, the proposal will not impose an undue burden on inter-market competition, rather the proposal will assist the Exchange in remaining competitive in light of protections offered by other options exchanges.[41] The Exchange competes with many other options exchanges, which offer Complex Orders. In this highly competitive market, market participants can easily and readily direct order flow to competing venues. The Exchange believes that not applying the Box and Butterfly Spread Protections to Customer Cross Orders, in addition to Complex Orders being auctioned in the Facilitation, Solicitation, Price Improvement mechanism and associated auction responses, does not impose any significant burden on competition because it will not be applied to any of these orders for any market participant.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[42] and Rule 19b–4(f)(6) thereunder.[43] 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 and Rule 19b–4(f)(6) thereunder.[44]

A proposed rule change filed under Rule 19b–4(f)(6)[45] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[46] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing so that the Exchange may immediately offer the Box and Butterfly Spread protections, which are offered on Phlx, and remain competitive with other markets. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the Box and Butterfly Spread protections will help market participant mitigate risk by preventing the execution of Butterfly and Box Spreads at prices that are outside of specified minimum and maximum values. The Commission notes that the Box and Butterfly Spread

[38] Allowing sell orders to trade by legging into the simple market at prices above the Maximum Value (buy orders below the Minimum Value) offers an opportunity for sellers/buyers to receive a premium beyond the potential intrinsic value of the spread without creating risk for the Complex Order Book.

[39] *Id.*

[40] Proposed Supplementary Material .07(a)(1) to ISE Rule 722 provides that the System will not permit any leg of a complex order to trade through the NBBO for the series by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange.

[41] *See* Phlx Rule 1098(i) and (j).

[42] 15 U.S.C. 78s(b)(3)(A)(iii).

[43] 17 CFR 240.19b–4(f)(6).

[44] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[45] 17 CFR 240.19b–4(f)(6).

[46] 17 CFR 240.19b–4(f)(6)(iii).

protections are substantially similar to protections offered on Phlx. Therefore, the Commission designates the proposed rule change operative upon filing.[47]

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) of the Act[48] 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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2018–55 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–2018–55. This file number should be included on the subject line if e-mail 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–ISE–2018–55, and should be submitted on or before July 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13505 Filed 6–22–18; 8:45 am]

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[47] For purpose only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[48] 15 U.S.C. 78s(b)(2)(B).

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83463]

Draft 2018–2022 Strategic Plan for Securities and Exchange Commission

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: The Securities and Exchange Commission (SEC) is providing notice that it is seeking comments on its draft 2018–2022 Strategic Plan. The draft Strategic Plan includes a draft of the SEC's mission, vision, values, strategic goals, and planned initiatives.

DATES: Comments should be received on or before July 25, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

Send an email to *PerformancePlanning@sec.gov.*

Paper Comments

Send paper comments to Nicole Puccio, Branch Chief, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–2521.

FOR FURTHER INFORMATION CONTACT: Nicole Puccio, Branch Chief, Office of Financial Management, at (202) 551–6638, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–2521.

SUPPLEMENTARY INFORMATION: The draft strategic plan is available at the Commission's website at *https://www.sec.gov/files/sec-strategic-plan-2018-2022.pdf* or by contacting Nicole Puccio, Branch Chief, Office of Financial Management, at (202) 551–6638, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–2521.

By the Commission.

Dated: June 19, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–13484 Filed 6–22–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83467; File No. SR–CboeBZX–2018–019]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of Eighteen ADRPLUS Funds of the Precidian ETFs Trust Under Rule 14.11(i), Managed Fund Shares

June 19, 2018.

I. Introduction

On March 5, 2018, Cboe BZX Exchange, Inc. 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 (''Shares'') of eighteen ADRPLUS Funds (''Funds'') of the Precidian ETFs Trust (''Trust''). The proposed rule change was published for comment in the **Federal Register** on March 21, 2018.[3] On April 25, 2018, the Exchange filed Amendment No. 1 to the proposed rule change,[4] and the Commission, pursuant to Section 19(b)(2) of the Act,[5] designated a longer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82881 (March 15, 2018), 83 FR 12449.

[4] Amendment No. 1 replaced and superseded the original rule filing in its entirety. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboebzx-2018-019/cboebzx2018019-3551361-162325.pdf.* Amendment No. 1 was subsequently replaced and superseded in its entirety by Amendment No. 2. *See* note 7, *infra.*

[5] 15 U.S.C. 78s(b)(2).

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.[6] On May 17, 2018, the Exchange filed Amendment No. 2 to the proposed rule change.[7] The Commission has received no comment letters on the proposed rule change, as modified by Amendment No. 2 thereto. This order institutes proceedings under Section 19(b)(2)(B) of the Act[8] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2 thereto.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of eighteen different series of the Trust under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. Specifically, the Exchange proposes to list Shares of Anheuser-Busch InBev SA/NV ADRPLUS Fund, AstraZeneca PLC ADRPLUS Fund, Banco Santander, S.A. ADRPLUS Fund, BP P.L.C. ADRPLUS Fund, British American Tobacco p.l.c. ADRPLUS Fund, Diageo plc ADRPLUS Fund, GlaxoSmithKline plc ADRPLUS Fund, HSBC Holdings Plc ADRPLUS Fund, Mitsubishi UFJ Financial Group, Inc. ADRPLUS Fund, Novartis AG ADRPLUS Fund, Novo Nordisk A/S (B Shares) ADRPLUS Fund, Royal Dutch Shell plc (Class A) ADRPLUS Fund, Royal Dutch Shell plc (Class B) ADRPLUS Fund, Sanofi ADRPLUS Fund, SAP AG ADRPLUS Fund, Total S.A. ADRPLUS Fund, Toyota Motor Corporation ADRPLUS Fund, and Vodafone Group Plc ADRPLUS Fund. The Funds are a series of, and the Shares will be offered by, the Trust, which was organized as a Delaware statutory trust on August 27, 2010.[9] Precidian Funds LLC (''Adviser'')[10] will serve as the investment adviser to the Funds.[11] The Exchange has made the following representations and statements in describing the Funds and their investment strategies.[12]

A. Exchange's Description of the ADRPLUS Funds

Each Fund seeks to provide investment results that correspond generally, before fees and expenses, to the price and yield performance of a particular American Depositary Receipt, hedged against fluctuations in the exchange rate between the U.S. dollar and the local currency of the foreign security underlying the American Depositary Receipt (''Local Currency''). The following chart lists the underlying company and the Local Currency for each of the Funds.

Fund name	Underlying company	Local currency
Anheuser-Busch InBev SA/NV ADRPLUS Fund	Anheuser-Busch InBev SA/NV	Euro.
AstraZeneca PLC ADRPLUS Fund	AstraZeneca PLC	British pound.
Banco Santander, S.A. ADRPLUS Fund	Banco Santander, S.A	Euro.
BP P.L.C. ADRPLUS Fund	BP p.l.c	British pound.
British American Tobacco p.l.c. ADRPLUS Fund	British American Tobacco p.l.c	British pound.
Diageo plc ADRPLUS Fund	Diageo plc	British pound.
GlaxoSmithKline plc ADRPLUS Fund	GlaxoSmithKline plc	British pound.
HSBC Holdings Plc ADRPLUS Fund	HSBC Holdings Plc	British pound.
Mitsubishi UFJ Financial Group, Inc. ADRPLUS Fund	Mitsubishi UFJ Financial Group, Inc	Japanese yen.
Novartis AG ADRPLUS Fund	Novartis AG	Swiss franc.
Novo Nordisk A/S (B Shares) ADRPLUS Fund	Novo Nordisk A/S (B Shares)	Danish krone.
Royal Dutch Shell plc (Class A) ADRPLUS Fund	Royal Dutch Shell plc (Class A)	Euro.
Royal Dutch Shell plc (Class B) ADRPLUS Fund	Royal Dutch Shell plc (Class B)	British pound.
Sanofi ADRPLUS Fund	Sanofi	Euro.
SAP AG ADRPLUS Fund	SAP AG	Euro.

[6] *See* Securities Exchange Act Release No. 83102 (April 25, 2018), 83 FR 19126 (May 1, 2018). The Commission designated June 19, 2018, as the date by which the Commission would either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[7] In Amendment No. 2, which amends the proposed rule change and replaces and supersedes Amendment No. 1 in its entirety, the Exchange: (1) Specified that the Funds' investments in derivatives would be limited to over-the-counter (''OTC'') currency swaps; (2) corrected references to Exchange rules; (3) deleted a representation that the Funds may not meet the requirement in Exchange Rule 14.11(i)(4)(C)(iv)(b) that the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures); (4) represented that the Funds' investments in cash equivalents would be limited to the cash equivalents listed in Exchange Rule 14.11(i)(4)(C)(iii); (5) represented that the Trust would comply with the surveillance requirements for Managed Fund Shares under Exchange Rule 14.11(i); (6) represented that each Fund expects to invest in excess of 95% of its net assets in the Unhedged ADRs (as defined herein), and that each Fund expects that the gross notional value of the Currency Hedge (as defined herein) would be equal to the value of the Unhedged ADRs, which would be approximately 50% of the weight of the portfolio (including gross notional exposures); (7) represented that the Exchange will suspend trading and commence delisting proceedings for a Fund if the Unhedged ADR held by the Fund has been suspended from trading or delisted by the Unhedged ADR's listing exchange; (8) represented that the Exchange or FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income instruments reported to TRACE; (9) deleted repetitive information and information irrelevant to this proposal; and (10) made other clarifications, corrections, and technical and conforming changes. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-cboebzx-2018-019/cboebzx2018019-3665011-162423.pdf.* Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

[8] 15 U.S.C. 78s(b)(2)(B).

[9] The Exchange represents that the Trust is registered with the Commission as an open-end management investment company and has filed a registration statement on behalf of the Funds on Form N–1A (''Registration Statement'') with the Commission. *See* Registration Statement on Form N–1A for the Trust, filed with the Commission on June 14, 2017 (File Nos. 333–171987 and 811–22524). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement.

[10] The Exchange represents that the Commission has issued an order granting certain exemptive relief to the Adviser and open-end management companies advised by the Adviser under the Investment Company Act of 1940 (15 U.S.C. 80a–1). *See* Investment Company Act Release No. 32622 (May 2, 2017) (File No. 812–14584).

[11] According to the Exchange, the Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. In addition, Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[12] Additional information regarding the Funds, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of net asset value (''NAV''), distributions, and taxes, among other things, can be found in Amendment No. 2 to the proposed rule change and the Registration Statement, as applicable. *See supra* notes 7 and 9, respectively.

Fund name	Underlying company	Local currency
Total S.A. ADRPLUS Fund	Total S.A	Euro.
Toyota Motor Corporation ADRPLUS Fund	Toyota Motor Corporation	Japanese yen.
Vodafone Group Plc ADRPLUS Fund	Vodafone Group Plc	British pound.

Each of the Funds will hold only: (i) Shares of an American Depositary Receipt (''Unhedged ADR'') listed on a U.S. national securities exchange; (ii) OTC currency swaps that hedge against fluctuations in the exchange rate (''Exchange Rate'') between the U.S. dollar and the Local Currency (''Currency Hedge''); and (iii) cash and cash equivalents.[13]

The Exchange states that the Funds will provide investors with the opportunity to easily eliminate currency exposure that they may not even realize exists with Unhedged ADRs without having to transact in the currency derivatives market. The Exchange believes that this confers a significant benefit to investors and the broader marketplace by adding transparency and simplifying the process of eliminating risk from an investor's portfolio. As further described below in the section entitled Policy Discussion, the Exchange believes that the policy concerns underlying the listing rules which the Funds would or may not meet, specifically Rules 14.11(i)(4)(C)(i)(a)(3)–(4)[14] and 14.11(i)(4)(C)(v),[15] are mitigated by the structure, holdings, and purpose of the Funds.

The Trust is required to comply with Rule 10A–3 under the Act[16] for the initial and continued listing of the Shares of each Fund. In addition, the Exchange represents that the Shares of each Fund will meet and be subject to all other requirements of the Generic Listing Rules, as defined below, and other applicable continued listing requirements for Managed Fund Shares under Exchange Rule 14.11(i), including those requirements regarding the Disclosed Portfolio (as defined in the Exchange rules) and the requirement that the Disclosed Portfolio and the NAV will be made available to all market participants at the same time,[17] intraday indicative value,[18] suspension of trading or removal,[19] trading halts,[20] disclosure,[21] firewalls,[22] and surveillance.[23] Further, at least 100,000 Shares of each Fund will be outstanding upon the commencement of trading.[24] The Exchange also provides that all statements and representations made in the filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference assets and intraday indicative values, and the applicability of Exchange listing rules specified in the filing will constitute continued listing requirements for the Funds. The Exchange states that the Trust, on behalf of the Funds, has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

B. Exchange's Policy Discussion

The Exchange believes that, while the Funds do not meet the Generic Listing Standards, in particular Rules 14.11(i)(4)(C)(i)(a)(3) and (4) and 14.11(i)(4)(C)(v), the policy issues that those rules are intended to address are otherwise mitigated by the structure, holdings, and purpose of the Funds.[25] The Exchange believes that Rule 14.11(i)(4)(C)(i)(a)(3) is intended to ensure that no single equity security constitutes too concentrated of a position in a series of Managed Fund Shares, and Rule 14.11(i)(4)(C)(i)(a)(4) is similarly intended to diversify the holdings of a series of Managed Fund Shares. The Exchange believes that these policy concerns are mitigated because: (i) The Unhedged ADR will meet the market cap and liquidity requirements of Rules 14.11(i)(4)(C)(i)(a)(1) and (2); and (ii) the intended function of the Funds is to eliminate currency exposure risk for a single security, which means that the Funds are necessarily concentrated. The Exchange represents that the creation and redemption mechanism will provide a near frictionless arbitrage opportunity that would minimize the risk of manipulation of either the Unhedged ADR or the applicable Fund and, thus, mitigate the manipulation concerns that Rules 14.11(i)(4)(C)(i)(a)(3) and (4) were intended to address.

The Exchange also believes that the policy issues that Rule 14.11(i)(4)(C)(v) is intended to address are also mitigated by the way that the Funds would use OTC currency swaps. According to the Exchange, the rule is intended to mitigate concerns around the manipulability of a particular underlying reference asset or derivatives contract and to minimize counterparty risk. While the Currency Hedge positions taken by the Currency Hedged ADRs would not meet the Generic Listing Standards related to OTC

[13] The Exchange states that for purposes of this filing and consistent with Rule 14.11(i)(4)(C)(iii), cash equivalents are short-term instruments with maturities of less than three months, that include only the following: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[14] The Exchange states that the Funds will not meet: (i) The requirement under Exchange Rule 14.11(i)(4)(C)(i)(a)(3) that the most heavily weighted component stock shall not exceed 30% of the equity weight of the portfolio; and (ii) the requirement under Exchange Rule 14.11(i)(4)(C)(i)(a)(4) that the equity portion of the portfolio shall include a minimum of 13 component stocks.

[15] The Exchange states that the Funds may not meet the requirement under Exchange Rule 14.11(i)(4)(C)(v) that the aggregate gross notional value of OTC derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures).

[16] 17 CFR 240.10A–3.

[17] *See* Exchange Rules 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[18] *See* Exchange Rule 14.11(i)(4)(B)(i).

[19] *See* Exchange Rule 14.11(i)(4)(B)(iii).

[20] *See* Exchange Rule 14.11(i)(4)(B)(iv). The Exchange will also halt trading in a Fund where there has been a regulatory trading halt declared in the associated Unhedged ADR until trading in the Unhedged ADR resumes.

[21] *See* Exchange Rule 14.11(i)(6).

[22] *See* Exchange Rule 14.11(i)(7).

[23] *See* Exchange Rule 14.11(i)(2)(C).

[24] *See* Exchange Rule 14.11(i)(4)(A)(i).

[25] The Exchange represents that each Fund expects to invest in excess of 95% of its net assets in the Unhedged ADRs, and each Fund expects that the gross notional value of the Currency Hedge would be equal to the value of the Unhedged ADRs, which would be approximately 50% of the weight of the portfolio (including gross notional exposures).

derivatives holdings, the Exchange believes that the policy concerns about limiting exposure to potentially manipulable underlying reference assets that the Generic Listing Standards are intended to address are otherwise mitigated by the liquidity in the underlying spot currency market that prevents manipulation of the reference prices used by the Currency Hedge. Further, the Exchange states that the Funds will attempt to limit counterparty risk in OTC currency swaps by: (i) Entering into such contracts only with counterparties the Advisor believes are creditworthy; (ii) limiting a Fund's exposure to each counterparty; and (iii) monitoring the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis. The Exchange believes that counterparty risk associated with OTC currency swaps is further mitigated because the currency swaps are settled on a daily basis and, thus, the counterparty risk for any particular swap is limited in two ways—first, that the counterparty credit exposure is always limited to a 24 hour period and second, that the exposure of the swap is only to the movement in the currencies over that same 24 hour period.

III. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2018–019 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [26] to determine whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[27] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, 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,'' and ''to protect investors and the public interest.'' [28]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[29]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by July 16, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 30, 2018. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 2 to the proposed rule change,[30] in addition to any other comments they may wish to submit about the proposed rule change.

The Commission notes that the Exchange proposes to list and trade, pursuant to its Rule 14.11(i), Managed Fund Shares of Funds that would invest in shares of a single Unhedged ADR, along with a Currency Hedge and cash and cash equivalents. A proposal to list and trade Managed Fund Shares hat are designed to reflect, generally, the price and performance of a *single* equity security, hedged against fluctuations in a given exchange rate, is novel. Accordingly, the Commission specifically seeks comment on whether it is appropriate to permit the listing and trading of shares of an exchange-traded fund with underlying holdings concentrated in a single (or a few unique) equity securities. What impact, if any, would such shares have on the market for the underlying equity security (or securities)? What impact, if any, would such shares have on the equity markets more generally, especially if funds investing in a single equity security proliferate? Are the listing and trading of such shares consistent with the requirements of Section 6(b)(5) of the Act, which, among other things, requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–019 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 Numbers SR–CboeBZX–2018–019. 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 these filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal

[26] 15 U.S.C. 78s(b)(2)(B).

[27] *Id.*

[28] 15 U.S.C. 78f(b)(5).

[29] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[30] *See supra* note 7.

identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–019 and should be submitted on or before July 16, 2018. Rebuttal comments should be submitted by July 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13508 Filed 6–22–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83466; File No. SR–NASDAQ–2018–045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Rules Pertaining to Co-Location and Direct Connectivity

June 19, 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 June 5, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the Exchange's rules pertaining to co-location and direct connectivity, which are presently at Rules 7034 and 7051, to Sections 1 and 2, respectively, under a new General 8 (''Connectivity'') heading within the Exchange's new rulebook shell, entitled ''General Equity and Options Rules.''

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 relocate its rules governing co-location and direct connectivity services, which presently comprise Rules 7034 and 7051, respectively. The Exchange proposes to establish, within its new rulebook shell,[3] a new General 8 heading, entitled ''Connectivity,'' to renumber Rule 7034 as Section 1 thereunder, and to renumber Rule 7051 as Section 2 thereunder. The Exchange furthermore proposes to amend Equity Rules 7007, 7015, 7025, and 7030, and Options Rules, Chapter XV to update cross references therein to Rules 7034 and 7051.[4] The Exchange also proposes to update internal cross-references in the renumbered Rules.

The Exchange considers it appropriate to relocate these Rules to better organize its Rulebook. The other Affiliated Exchanges intend to propose similar reorganizations of their co-location and direct connectivity rules so that these rules will be harmonized among all of the Affiliated Exchanges.

The relocation of the co-location and direct connectivity rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that moving the co-location and direct connectivity rules to their new location will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers and make conforming cross-reference changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way its Rulebook is organized, providing ease of reference in locating co-location and direct connectivity rules, and harmonizing the Exchange's Rules with those of the other Affiliated Exchanges. As previously stated, the proposed Rule relocation is non-substantive.

The Exchange also believes that it is just and equitable and consistent with the protection of investors and the interest of the public to remove expired waiver language from the Exchange's Rules.

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 intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

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.

[31] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges: Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (together with Nasdaq, the ''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82175 (November 29, 2017), 82 FR 57494 (December 5, 2017) (SR–NASDAQ–2017–125).

[4] In addition to the above, the Exchange proposes to delete language that exists presently in Rule 7034(b) (''Connectivity to Third Party Services'') and Rule 7051(b) (''Direct Circuit Connection to Third Party Services'') that each refer to expired waivers of fees for connections to third party services that were applicable ''through April 30, 2017.''

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The proposed rule change merely relocates the Exchange's co-location and direct connectivity rules, updates rule cross-references, and removes expired waiver language.[11] Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See supra* note 4.

[12] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2018–045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–045. 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–2018–045, and should be submitted on or before July 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13507 Filed 6–22–18; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83465; File No. SR–Phlx–2018–46]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Rules Pertaining to Co-Location and Direct Connectivity

June 19, 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 June 5, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the Exchange's rules pertaining to co-location and direct connectivity, which are presently at Sections X and XI of the Exchange's Pricing Schedule, to the Exchange's new rulebook shell, entitled ''General Equity and Options Rules,'' at new General 8 (''Connectivity''), Sections 1 and 2, respectively.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to relocate its rules governing co-location and direct connectivity services, which presently comprise Sections X and XI of the Exchange's Pricing Schedule, respectively. The Exchange proposes to establish, within its new rulebook shell,[3] a new General 8 heading, entitled ''Connectivity,'' to renumber Section X as Section 1 thereunder, and to renumber Section XI as Section 2 thereunder. The Exchange furthermore proposes to amend Sections VIII and XIII of the Pricing Schedule to update cross references therein to Sections X and XI. It corrects spelling errors in the existing text. The Exchange also proposes to update internal cross-references in the renumbered Rules.

The Exchange considers it appropriate to relocate these Rules to better organize its Rulebook. The other Affiliated Exchanges intend to propose similar reorganizations of their co-location and direct connectivity rules so that these rules will be harmonized among all of the Affiliated Exchanges.

The relocation of the co-location and direct connectivity rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that moving the co-location and direct connectivity rules to their new location will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers and make conforming cross-reference changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way its Rulebook is organized, providing ease of reference in locating co-location and direct connectivity rules, and harmonizing the Exchange's Rules with those of the other Affiliated Exchanges. As previously stated, the proposed Rule relocation is non-substantive.

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 intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The proposed rule change merely relocates the Exchange's co-location and direct connectivity rules, updates rule cross-references, and corrects spelling errors. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[3] Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges: The Nasdaq Stock Exchange, LLC; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (together with Phlx, the ''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82169 (November 29, 2017), 82 FR 57508 (December 5, 2017) (SR–Phlx–2017–97).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-Phlx-2018–46. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–46, and should be submitted on or before July 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13506 Filed 6–22–18; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33126; 812–14734]

AXA Equitable Life Insurance Company, et al.

June 19, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of Application for an order approving the terms of certain offers of exchange pursuant to section 11 of the Investment Company Act of 1940, as amended (the ''1940 Act''). Applicants request an order approving the terms of certain offers of exchange between certain separate accounts supporting variable annuity contracts and certain registered open-end management investment companies.

APPLICANTS: AXA Equitable Life Insurance Company (''AXA Equitable''), a New York stock life insurance company; Separate Account A of AXA Equitable Life Insurance Company (''Separate Account A''), registered under the 1940 Act as a unit investment trust and a ''separate account'' as defined in section 2(a)(37) of the 1940 Act; AXA Advisors, LLC (''AXA Advisors''); AXA Distributors, LLC (''AXA Distributors''); ALPS Distributors, Inc. (''ALPS Distributors''); and AllianceBernstein Investments, Inc. (''ABI'' and, together with AXA Equitable, Separate Account A, AXA Advisors, AXA Distributors, ALPS Distributors, and ABI, the ''Applicants'').[1]

FILING DATES: The application was filed on January 10, 2017, and amended on June 23, 2017; November 21, 2017; and April 10, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on Monday, July 16, 2018 and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the 1940 Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Shane Daly, AXA Equitable Life Insurance Company, 1290 Avenue of the Americas, New York, NY 10104; and Christopher E. Palmer, Esq., and Andrew L. Zutz, Esq., Goodwin Proctor LLP, 901 New York Avenue NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: James D. McGinnis, Senior Counsel, at (202) 551–3025, or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants seek an order on behalf of AXA Equitable and any current or future affiliated life insurance company (each, an ''Insurance Company'' and, collectively, the ''Insurance Companies''), Separate Account A and any current or future separate account of an Insurance Company (each, a ''Separate Account'' and, collectively, the ''Separate Accounts''), and AXA Advisors, AXA Distributors, ALPS Distributors, ABI, and any current or future broker-dealer serving as principal underwriter of variable annuity contracts issued by an Insurance Company or registered open-end management investment companies advised by an affiliate of an Insurance Company.

2. Separate Account A is registered under the 1940 Act as a unit investment trust for the purpose of funding certain variable annuity contracts issued by AXA Equitable (any such contract and any other current or future variable annuity contract issued by an Insurance Company that is funded by a Separate Account is hereinafter referred to as a ''Contract'' and collectively, the ''Contracts''). Security interests under the Contracts have been registered under the Securities Act of 1933. The Contracts currently offer various subaccounts of Separate Account A, each of which invests exclusively in a single corresponding portfolio of EQ Advisors Trust or AXA Premier VIP Trust (together, the ''Affiliated Trusts'') or certain unaffiliated trusts (the ''Unaffiliated Trusts'' and collectively with the Affiliated Trusts, the ''Trusts''). The Trusts are registered under the 1940 Act as open-end management investment companies with multiple separate series or portfolios. The Contracts may offer additional subaccounts of Separate Account A or any other Separate Account in the future, each of which may invest in any

[1] Each of AXA Advisors, AXA Distributors, ALPS Distributors, and ABI are registered with the Commission as broker-dealers and are members of the Financial Industry Regulatory Authority.

current or future portfolio of the Affiliated Trusts or in any current or future registered open-end management investment company, or series thereof, advised by AXA Equitable Funds Management Group, LLC (''AXA FMG'') or an affiliate. AXA Advisors and AXA Distributors currently serve as the distributors and principal underwriters of the Contracts.

3. Applicants and their affiliates propose to offer the AXA Retirement 360 Defined Contribution Program, a retirement program designed to provide participants (''Participants'') in a single coordinated program selection of investment options, including both Contracts and mutual fund options, and the ongoing ability to transfer their account values among one or more investment options without charge (the ''Program'').

4. AXA Equitable has issued certain Contracts that it will make available under the Program at or following its inception. The Contracts will be offered to new retirement plan customers, and existing Contract owners will have the option to elect to participate in the Program. The Contracts permit Contract owners to allocate Contract value to and among the various subaccounts of the Separate Accounts (any such current or future subaccount is hereinafter referred to as a ''Subaccount'' and, collectively, the ''Subaccounts''). Each current Subaccount invests in a portfolio of the Trusts. Each Contract permits transfers of Contract value among the Subaccounts subject to certain restrictions set forth in the Contract prospectus.

5. Applicants and their affiliates propose in the future to expand the investment options under the Program to include certain current or future investment companies, or series thereof, advised by AXA FMG or an affiliate (each an ''Affiliated Fund'' and, collectively, the ''Affiliated Funds''), such that Participants in the Program may allocate their investments to a Contract and/or to certain Affiliated Funds.[2] Under existing procedures and established exemptive rules,[3] exchanges may be made among the Subaccounts and exchanges may be made among Affiliated Funds. With respect to exchanges from a Subaccount to an Affiliated Fund, the Affiliated Fund shares will have no front-end sales charge and any otherwise applicable sales charge or other withdrawal charge on withdrawals from or surrenders of the Contract will be waived. Similarly, with respect to exchanges from an Affiliated Fund to a Subaccount, the Affiliated Fund shares will have no deferred sales charge and the Contracts will have no front-end sales charge. Further specifics relating to the proposed offers of exchange (the ''Exchange Offers'') are described in detail in the application.

6. Applicants request that the Commission issue an order pursuant to section 11 of the 1940 Act approving the terms of the Exchange Offers; in particular, Applicants propose that Participants be permitted to transfer value: (1) From a Subaccount to an Affiliated Fund; and (2) from an Affiliated Fund to a Subaccount. Any order approving the Exchange Offers would be subject to the terms and conditions stated in the application with regard to such transfers.

7. Applicants state that exchanges will be subject to any rules or procedures established under the Contract or established by the Affiliated Funds with respect to transfers and redemptions generally, including minimum transfer amounts and policies and procedures relating to frequent transfers and abusive trading practices. Applicants also reserve the right to implement exchange limitations for the Program generally, although Applicants state that they have no intention of implementing any such limitations and would seek to do so primarily for the purpose of addressing any apparent abusive practices in connection with the exchanges that may arise.

8. Applicants state that no fees or charges will be assessed in connection with any exchange from a Subaccount to an Affiliated Fund or from an Affiliated Fund to a Subaccount. In this regard, the Insurance Company will waive any otherwise applicable sales charge or other withdrawal charge on withdrawals from or surrenders of the Contract in connection with an exchange from a Subaccount to an Affiliated Fund.

9. Applicants state that they intend to make this exchange feature available on an ongoing basis to all Participants but reserve the right to terminate or materially amend the offer with respect to all or any of the investment options with advance notice to affected Participants at least 60 days prior to the date of termination or the effective date of the amendment, subject to limited exceptions described in the application.

10. Because each of the proposed Exchange Offers involves a unit investment trust, Section 11(c) of the 1940 Act makes Section 11(a) applicable irrespective of the basis of the exchange. Applicants represent that the proposed Exchange Offers do not involve any of the abuses that section 11 is designed to prevent. Applicants state that there is no possibility of such abuse because the Exchange Offers will be based on the relative net asset values or unit values of the interest being exchange and no fees or charges will be assessed in connection with any exchange from a Subaccount to any Affiliated Fund or from an Affiliated Fund to a Subaccount. In addition, the Contracts to not impose any sales charges on investments in the Contracts, and any withdrawal charges imposed by any Contracts will be waived in connection with any exchange from a Subaccount to any other Subaccount or to any other investment option available under the Program, including any Affiliated Fund and any Unaffiliated Fund. Following any such exchange, any withdrawal charge that might otherwise be deducted upon subsequent withdrawal from or surrender of a Contract will be waived and any sales charge that might otherwise be applicable to any Subaccount or to any other investment option available under the Program when subsequently sold will be waived.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13500 Filed 6–22–18; 8:45 am]

BILLING CODE 8011–01–P

[2] Participants may also direct investments under the Program to investment options under annuity contracts that do not utilize a separate account registered under the 1940 Act (the ''Non-1940 Act Investment Options''). Because the interests in the Non-1940 Act Investment Options are not securities issued by a registered investment company, exchanges involving those interests are not subject to Section 11 of the 1940 Act. No exemptive relief is being sought in this Application with respect to exchanges to and from the Non-1940 Act Options. Participants may also direct investments to registered open-end investment companies (*i.e.,* mutual funds) for which Applicants or their affiliates do not serve as investment adviser or principal underwriter (the ''Unaffiliated Funds''). Because Unaffiliated Funds and their principal underwriters are not affiliated with Applicants, and because there will be no agreement, formally or informally, between any two Unaffiliated Fund families to offer a waiver of sales load or some other incentive for an exchange of shares from one Unaffiliated Fund family to the other in connection with the Program, Applicants believe that exchanges involving shares of such Unaffiliated Mutual Funds are not subject to Section 11 of the 1940 Act pursuant to Commission staff guidance. *See, e.g., Alexander Hamilton Funds,* SEC No-Action Letter (pub. avail. July 20, 1994).

[3] See 1940 Act rules 11a–2 and 11a–3.

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15565 and #15566; MARYLAND Disaster Number MD–00035]

Administrative Declaration of a Disaster for the State of Maryland

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Maryland dated 06/14/2018.

Incident: Severe Flooding.

Incident Period: 05/15/2018 through 05/20/2018.

DATES: Issued on 06/14/2018.

Physical Loan Application Deadline Date: 08/13/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 03/14/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Frederick

Contiguous Counties:

Maryland: Carroll, Howard, Montgomery, Washington

Pennsylvania: Adams, Franklin

Virginia: Loudoun

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	7.220
Businesses without Credit Available Elsewhere	3.610
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.610
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15565 6 and for economic injury is 15566 0.

The States which received an EIDL Declaration # are Maryland, Pennsylvania, Virginia.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: June 14, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–13483 Filed 6–22–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15563 and #15564; VIRGINIA Disaster Number VA–00072]

Administrative Declaration of a Disaster for the Commonwealth of Virginia

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Virginia, dated 06/14/2018.

Incident: Forest Glen Senior Apartment Complex Fire.

Incident Period: 05/02/2018.

DATES: Issued on 06/14/2018.

Physical Loan Application Deadline Date: 08/13/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 03/14/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Fairfax

Contiguous Counties:

Virginia: Alexandria (City), Arlington, Fairfax City, Falls Church (City), Loudoun, Prince William

District of Columbia: District of Columbia

Maryland: Charles, Montgomery, Prince Georges

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	7.220
Businesses without Credit Available Elsewhere	3.610
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.610
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155635 and for economic injury is 155640.

The States which received an EIDL Declaration are Virginia, District of Columbia, Maryland.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: June 14, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–13485 Filed 6–22–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10454]

30-Day Notice of Proposed Information Collection: Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements

ACTION: Notice of request for public comment.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The

purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 25, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

Fax: 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522–0112, via phone at (202) 663–3136, or via email at *battistaal@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements.

• *OMB Control Number:* 1405–0093.

• *Type of Request:* Extension.

• *Originating Office:* Directorate of Defense Trade Controls (DDTC).

• *Form Number:* No Form.

• *Respondents:* Business, Nonprofit Organizations, or Persons who intend to furnish defense services or technical data to a foreign person.

• *Estimated Number of Respondents:* 580.

• *Estimated Number of Responses:* 4430.

• *Average Time Per Response:* 2 hours.

• *Total Estimated Burden Time:* 8,860 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

DDTC regulates the export and temporary import of defense articles and services enumerated on the USML in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). In accordance with ITAR § 124.1, any person who intends to furnish defense services or technical data to a foreign person must submit a proposed technical assistance, manufacturing, or distribution license agreement and obtain prior authorization from DDTC for such agreement. Amendments to existing agreements must also be submitted for approval. The electronic mechanism utilized for submitting, reviewing, and approving agreement proposals is the Defense Trade Application Systems (DTAS). Specifically, this process utilizes the DSP–5 license application as the primary instrument or ''vehicle'' for transmitting agreements and their respective amendments from one phase of the adjudication process to the next.

Methodology

Respondents will submit information as attachments to relevant license applications or requests for other approval.

Anthony M. Dearth,

Chief of Staff (Acting), Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2018–13580 Filed 6–22–18; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 10455]

30-Day Notice of Proposed Information Collection: Maintenance of Records by DDTC Registrants

ACTION: Notice of request for public comment.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 25, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

Fax: 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522–0112, via phone at (202) 663–3136, or via email at *battistaal@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Maintenance of Records by Registrants.

• *OMB Control Number:* 1405–0111.

• *Type of Request:* Extension of a currently approved collection.

• *Originating Office:* Directorate of Defense Trade Controls (PM/DDTC).

• *Form Number:* No form.

• *Respondents:* Persons registered with DDTC who conduct business regulated by the International Traffic in Arms Regulations (ITAR, 22 CFR parts 120–130).

• *Estimated Number of Respondents:* 9,100.

• *Estimated Number of Responses:* 9,100.

• *Average Time per Response:* 20 hours.

• *Total Estimated Burden Time:* 182,000 hours.

• *Frequency:* Annually.

• *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the

validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The ITAR requires persons registered with DDTC to maintain records pertaining to defense trade-related transactions. This information collection approves the record-keeping requirements imposed on registrants by the ITAR. Respondents to this collection may submit their records to DDTC as supporting documentation for disclosures of potential violations of the AECA. The method by which respondents submit these records is approved under OMB control no. 1405–0179. DDTC uses these records to analyze industry compliance processes and procedures, and to help assess whether the activity in question might merit administrative sanctions or referral to the Department of Justice for possible criminal prosecution.

Methodology

Respondents may maintain records in any format consistent with the provisions in ITAR § 122.5.

Anthony M. Dearth,

Managing Director (Acting), Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2018–13515 Filed 6–22–18; 8:45 am]

BILLING CODE 4710–25–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2018–0019; Dispute Number WT/DS531]

WTO Dispute Settlement Proceeding Regarding Canada—Measures Governing the Sale of Wine in Grocery Stores (Second Complaint)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (WTO Agreement). That request may be found at *www.wto.org* in a document designated as WT/DS531/7. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments during the course of the dispute settlement proceedings, you should submit your comment on or before July 20, 2018, to be assured of timely consideration by USTR.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section III below. The docket number is USTR–2018–0019. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395–9483.

FOR FURTHER INFORMATION CONTACT: Associate General Counsel Joseph Rieras at (202) 395–3775.

SUPPLEMENTARY INFORMATION:

I. Background

Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires notice and opportunity for comment after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Pursuant to this provision, USTR is providing notice that the United States has requested a dispute settlement panel pursuant to the WTO *Understanding on Rules Procedures Governing the Settlement of Disputes* (DSU). Once the WTO establishes a dispute settlement panel, the panel will hold its meetings in Geneva, Switzerland.

II. Major Issues Raised by the United States

In 2017, the United States requested consultations with Canada regarding measures maintained by the Canadian province of British Columbia (BC) governing the sale of wine in grocery stores. The United States alleged that the BC wine measures provide advantages to BC wine through the granting of exclusive access to the retail channel of selling wine on grocery store shelves, while limiting imported wine to be sold in grocery stores only through a so-called ''store within a store.'' The parties failed to reach a mutually satisfactory resolution to this dispute. On May 25, 2018, the United States requested that the WTO establish a panel to consider the U.S. complaint.

The United States alleges the BC measures are inconsistent with Canada's obligations under Article III:4 of the *General Agreement on Tariffs and Trade 1994.*

III. Public Comments: Requirements for Submissions

USTR invites written comments concerning the issues raised in this dispute. All submissions must be in English and sent electronically via *www.regulations.gov.* To submit comments via *www.regulations.gov,* enter docket number USTR–2018–0019 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''notice'' under ''document type'' on the left side of the search-results page, and click on the link entitled ''comment now!'' For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on ''How to Use Regulations.gov'' on the bottom of the home page.

The *www.regulations.gov* website allows users to provide comments by filling in a ''type comment'' field, or by attaching a document using an ''upload file'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''see attached'' in the ''type comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''type comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top and bottom of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public

version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. If this is not sufficient to protect business confidential information or otherwise protect business interests, please contact Sandy McKinzy at (202) 395–9483 to discuss whether alternative arrangements are possible.

USTR may determine that information or advice contained in a comment, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If a submitter believes that information or advice is confidential, s/he must clearly designate the information or advice as confidential and mark it as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page, and provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2018–0019, accessible to the public at *www.regulations.gov.* The public file will include non-confidential public comments USTR receives regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, USTR will make the following documents publicly available at *www.ustr.gov:* The U.S. submissions and any non-confidential summaries of submissions received from other participants in the dispute. The report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization, at *www.wto.org.*

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement, Office of the U.S. Trade Representative.

[FR Doc. 2018–13488 Filed 6–22–18; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 28, 2018. The information is used to determine if applicants satisfy requirements for obtaining a launch license to protect the public from risks associated with reentry operations from a site not operated by or situated on a Federal launch range.

DATES: Written comments should be submitted by July 25, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Hall at (940) 594–5913, or by email at: *Barbara.L.Hall@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA 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.

OMB Control Number: 2120–0643.

Title: Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulation.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 28, 2018 (83 FR 13338). The data is necessary for a U.S. citizen to apply for and obtain a reusable launch vehicle (RLV) mission license or a reentry license for activities by commercial or non-federal entities (that are not done by or for the U.S. Government) as defined and required by 49 U.S.C., Subtitle IX, Chapter 701, formerly known as the Commercial Space Launch Act of 1984, as amended. The information is needed in order to demonstrate to the FAA Office of Commercial Space Transportation (FAA/AST) that the proposed activity meets applicable public safety, national security, and foreign policy interests of the United States.

Respondents: Approximately 5 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3,900 hours.

Estimated Total Annual Burden: 19,500 hours.

Issued in Washington, DC, on June 18, 2018.

Barbara Hall,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110

[FR Doc. 2018–13491 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: AVIATOR Customer Satisfaction Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 30, 2018. The collection involves on-line, electronic applicant (customer) answers to standard survey questions. The questions are presented as multiple-choice selections and free-form text areas where applicants can choose their desired answer and, if they wish, add

additional comments. The information to be collected will be used to and is necessary to gage the level of user satisfaction with the AVIATOR (Automated Vacancy Information Access Tool for Online Referral) system. Additionally, the surveys are used to obtain benchmarking and feedback to ensure quality.

DATES: Written comments should be submitted by July 25, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Hall at (940) 594–5913, or by email at: *Barbara.L.Hall@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA 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.

OMB Control Number: 2120–0699.

Title: AVIATOR Customer Satisfaction Survey.

Form Numbers: N/A (electronic).

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 30, 2018 (83 FR 13808). The Government Performance and Results Act of 1993 (GPRA) Section 2(b)(3) requires agencies to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction''. In addition, as stated in the White House ''Memorandum for Heads of Executive Departments and Agencies'' regarding Executive Order No. 12862, ''the actions the order prescribes, such as surveying customers, surveying employees, and benchmarking, shall be continuing agency activities''. This collection supports the DOT strategic goal of Organizational Excellence.

In compliance with the Government Paperwork Elimination Act (GPEA), all of our data collection will be 100% electronic using an online form; Applicants will be asked to complete the survey just before they exit the system. The AVIATOR Customer Satisfaction Survey is designed to identify potential problems with FAA's automated staffing solutions as well as to evaluate customer satisfaction with the on-line application process. The information is not gathered by any other collection. It will be difficult, if not impossible, to improve the AVIATOR system's overall performance and customer satisfaction without utilizing the survey as a performance measurement tool.

Respondents: Individuals who use AVIATOR (the FAA's Online Job Application System).

Frequency: On occasion of use of AVIATOR.

Estimated Average Burden per Response: 0.05 hours.

1 Year average: 1 January–31 December 2017.

It is estimated that it will take each of the 75,515 (estimated average) external applicants three minutes to complete one survey for a total of 3,776 hours, if all external applicants choose to complete the AVIATOR Customer Satisfaction Survey. The survey statistics show that an average of 2.2% of the applicants (approximately 1,645) complete a survey resulting in an estimate of 82 total hours.

Applicants are asked 'Was this the first time applying for a FAA job?' and will be provided the options of 'Yes' or 'No'.

Applicants will then see the set of statements below. They will be asked to give their level of agreement with each statement by selecting one of the following six choices: Strongly agree, agree, disagree, strongly disagree, no basis to judge. For each question, the applicant may include additional information in a text area.

Applicant Statements:

(1) Overall, my satisfaction with the FAA AVIATOR portion of this application process was positive.

(2) I was able to navigate around the FAA AVIATOR website with little or no difficulty.

(3) I was able to complete and submit the application with no difficulty (only applicable to applicants whose responses met the eligibility requirements of the position).

(4) The FAA AVIATOR system notified me when there was a problem with my application (applicable to applicants whose responses did NOT meet the eligibility requirements of the position).

(5) I was able to get assistance with the FAA AVIATOR system as needed.

Applicants will also be given the opportunity to add additional comments.

Estimated Total Annual Burden:

Calendar year: 1 January–31 December 2017.

Time burden for respondents: 1,645 responses × 0.05 hours = 82.25 hours.

Issued in Washington, DC, on June 18, 2018.

Barbara Hall,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2018–13492 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and the other Federal agencies that are final applicable Federal regulations. The actions relate to a proposed new, limited-access highway between the towns of Apex and Knightdale in Wake County, North Carolina, completing the 540 outer loop circumferential highway around the greater Raleigh area. This project, known as Complete 540—Triangle Expressway Southeast Extension, is also known as State Transportation Improvement Program Project R–2721, R–2828, and R–2829. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139 (I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filled on or before November 22, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence W. Coleman, P. E., Preconstruction and Environment Director, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601–1418; Telephone: (919) 747–7014; email: *clarence.coleman@dot.gov.* FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). Mr. Roger D. Rochelle, P. E., Chief Engineer-Innovative Delivery, North Carolina Turnpike Authority (NCTA), 1578 Mail Service Center, Raleigh, North Carolina 27699–1578; Telephone (919) 707–2710, email: *rdrochelle@dot.state.nc.us.* NCTA's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing a Record of Decision (ROD) for the following highway project in the State of North Carolina: The Complete 540—Triangle Expressway Southeast Extension, a 27-mile long, multi-lane, fully access-controlled, new location toll road. The project is also known as State Transportation Improvement Program (STIP) Project Numbers R–2721, R–2828, and R–2829. The project would run generally in an east-west direction. On the west, the project begins at NC 55 Bypass in Apex; on the east, it ends at US 64/US 264 (I–495/I–87) in Knightdale. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (EIS) for the project, approved on December 21, 2017, and the FHWA Record of Decision (ROD) issued on June 6, 2018 approving the Complete 540 project, and in other documents in the FHWA administrative record. The Final EIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA or the NCDOT Turnpike Authority at the addresses provided above. The Final EIS and ROD along with referenced technical documents can be viewed and downloaded from the project website at *https://www.ncdot.gov/projects/Complete540/* or viewed at the Turnpike Authority office at 1 South Wilmington Street, Raleigh, North Carolina 27601.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Record of Decision (ROD) for the project approved on June 6, 2018, and in other documents in the FHWA administrative record. The ROD and other documents in the FHWA administrative record file are available by contacting the FHWA or NCDOT at the addresses provided above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319)]; Coastal Barrier Resources Act [16 U.S.C. 3501–3510]; Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (I)(1).

Clarence W. Coleman,

Preconstruction and Environment Director, Raleigh, North Carolina.

[FR Doc. 2018–13408 Filed 6–22–18; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2017 Grants for Buses and Bus Facilities Infrastructure Investment Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice; announcement of project selections. Fiscal year 2017 Grants for Buses and Bus Facilities Infrastructure Investment Program.

SUMMARY: The Federal Transit Administration (FTA) announces the selection of projects with $226,473,000 of Fiscal Year (FY) 2017 and $37,973,775 of FY 2018 appropriations for the Grants for Buses and Bus Facilities Infrastructure Investment Program (Bus and Bus Infrastructure Program).

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional Office for information regarding applying for the funds or program-specific information. A list of Regional Offices can be found at *www.fta.dot.gov.* Unsuccessful applicants may contact Mark G. Bathrick, Office of Program Management at (202) 366–9955, email: *Mark.Bathrick@dot.gov,* to arrange a proposal debriefing within 30 days of

this announcement. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: On July 18, 2017, FTA published a Notice of Funding Opportunity (NOFO) announcing the availability of Federal funding for the Grants for Buses and Bus Facilities Infrastructure Investment Program as authorized by Federal transit law (49 U.S.C. 5339(b)). These program funds will provide financial assistance to states and eligible public agencies to replace, rehabilitate, purchase, or lease buses, vans, and related equipment, and capital projects to rehabilitate, purchase, construct, or lease bus-related facilities. In response to the NOFO, FTA received 453 project proposals from 53 States and territories totaling approximately $2 billion in Federal funds, or nearly nine dollars requested for each dollar available, indicating significant demand for funding for buses and bus facility projects. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria outlined in the NOFO.

FTA is funding 139 projects, as shown in Table 1, for a total of $264,446,775. Recipients selected for competitive funding should work with their FTA Regional Office to submit a grant application in FTA's Transit Award Management System (TrAMs) for the projects identified in the attached table. Funds must be used consistent with the competitive proposal and for the eligible capital purposes established in the NOFO and described in the FTA Circular 9030.1E. Applicants with more than one selected project will receive a single allocation that may be used for any one or more of the selected projects.

In cases where the allocation amount is less than the proposer's total requested amount, recipients are required to fund the scalable project option as described in the application. If the award amount does not correspond to the scalable option, for example due to a cap on the award amount, the recipient should work with the Regional Office to reduce scope or scale the project such that a complete phase or project is accomplished. Recipients are reminded that program requirements such as cost sharing or local match can be found in the NOFO. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TrAMs application.

Selected projects are eligible to incur costs under pre-award authority no earlier than the date projects were publicly announced, April 5, 2018. Pre-award authority does not guarantee that project expenses incurred prior to the award of a grant will be eligible for reimbursement, as eligibility for reimbursement is contingent upon other requirements, such as planning and environmental requirements, having been met. For more about FTA's policy on pre-award authority, please see the FTA Fiscal Year Apportionments, Allocations, and Program Information and Interim Guidance found in 82 *FR* 6692 (January 19, 2017). Post-award reporting requirements include submission of the Federal Financial Report and Milestone progress reports in TrAMs as appropriate (see FTA.C.5010.1E and C9030.1E). Recipients must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. FTA emphasizes that recipients must follow all third-party procurement guidance, as described in FTA.C.4220.1F. Funds allocated in this announcement must be obligated in a grant by September 30, 2021.

K. Jane Williams,

Acting Administrator.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS

State	Applicant	Project ID	Project description	Funded amount	Project rating
AK	Alaska Department of Transportation & Public Facilities.	D2017–BUSC–001	Interior Alaska Bus Line transit vehicle replacement project.	**$68,000**	Highly Recommended.
AK	Alaska Department of Transportation & Public Facilities.	D2017–BUSC–002	Purchase of Replacement Paratransit Buses.	**$216,000**	Highly Recommended.
AK	Alaska Department of Transportation & Public Facilities.	D2017–BUSC–003	Snow Removal Equipment for Stops and Shelters.	**$140,000**	Highly Recommended.
AK	Ninilchik Village	D2017–BUSC–004	Bus Maintenance Facility	**$551,982**	Highly Recommended.
AK	Municipality of Anchorage	D2017–BUSC–005	MOA PTD Bus Storage Building Roof and Interior Drainage Replacement.	**$1,250,000**	Highly Recommended.
AL	Birmingham-Jefferson County Transit Authority.	D2017–BUSC–006	Bus Acquisition	**$3,600,000**	Highly Recommended.
AR	Ozark Regional Transit	D2017–BUSC–007	Replacement of Buses	**$3,600,000**	Highly Recommended.
AR	Rock Region METRO	D2017–BUSC–008	Bus Replacement	**$3,570,000**	Highly Recommended.
AZ	City of Phoenix	D2017–BUSC–009	Bus Replacement	**$2,600,000**	Highly Recommended.
CA	Butte County Association of Governments.	D2017–BUSC–010	ADA Bus Stop Replacements and Rehabilitations.	**$1,206,518**	Highly Recommended.
CA	City of Davis	D2017–BUSC–011	Unitrans Bus Mid-Life Overhaul.	**$1,206,518**	Highly Recommended.
CA	City of Norwalk	D2017–BUSC–012	2 Projects: (1) Anaheim Transportation Network: Zero-Emission Battery Electric Bus Replacement Project/ (2) Norwalk Transit System: Zero-Emission Battery Electric Bus Expansion Project.	**$1,206,518**	Highly Recommended.
CA	City of Santa Rosa	D2017–BUSC–013	CityBus Electric Bus Project	**$1,206,518**	Highly Recommended.
CA	Fairfield, City of	D2017–BUSC–014	Diesel-Electric Hybrid Bus Replacement Project.	**$1,206,518**	Highly Recommended.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS—Continued

State	Applicant	Project ID	Project description	Funded amount	Project rating
CA	Livermore Amador Valley Transit Authority.	D2017–BUSC–015	Livermore Transit Center Rehabilitation and Improvement Project.	**$434,811**	Highly Recommended.
CA	Long Beach Public Transportation Company.	D2017–BUSC–016	Purchase of Battery-Electric Buses.	**$1,206,518**	Highly Recommended.
CA	North County Transit District	D2017–BUSC–017	Replacement of Battery-Electric Buses.	**$1,206,518**	Highly Recommended.
CA	Orange County Transportation Authority.	D2017–BUSC–018	2 Projects: (1) OCTA Bus Amenities Infrastructure Improvement Program/ (2) OCTA Bus Operations Infrastructure Improvement Program.	**$1,206,518**	Highly Recommended.
CA	Sacramento Regional Transit District.	D2017–BUSC–019	Bus Maintenance Facility #1 (BMF1) Compressed Natural Gas (CNG) Fueling Equipment Replacement.	**$1,206,518**	Highly Recommended.
CA	Santa Cruz Metropolitan Transit District.	D2017–BUSC–020	Santa Cruz METRO: CNG Bus Replacements.	**$1,206,518**	Highly Recommended.
CA	California Department of Transportation.	D2017–BUSC–021	Nevada County Transit Services Transit Facility Improvement Project.	**$500,000**	Highly Recommended.
CO	State of Colorado Department of Transportation.	D2017–BUSC–022	Estes Park—Green Bus (Electric Trolley) Acquisition.	**$360,045**	Highly Recommended.
CO	State of Colorado Department of Transportation.	D2017–BUSC–023	Glenwood Springs—Purchase CNG bus.	**$458,384**	Highly Recommended.
CO	City of Colorado Springs dba Mountain Metropolitan Transit.	D2017–BUSC–024	Transit Campus Expansion ...	**$758,785**	Highly Recommended.
CO	State of Colorado Department of Transportation.	D2017–BUSC–025	Durango Transit Replacement Trolleys.	**$264,000**	Highly Recommended.
CO	State of Colorado Department of Transportation.	D2017–BUSC–026	Greeley—Fixed Route Bus Replacement.	**$758,785**	Highly Recommended.
CT	Norwalk Transit District	D2017–BUSC–027	Norwalk Transit District ASM Rehabilitation and Expansion Project.	**$3,600,000**	Highly Recommended.
DC	Washington Metropolitan Area Transit Authority.	D2017–BUSC–028	Bus Shelter Asset Replacement.	**$3,600,000**	Highly Recommended.
DE	Delaware Transit Corporation	D2017–BUSC–029	North Middletown, Delaware, Park and Ride.	**$150,000**	Highly Recommended.
DE	Delaware Transit Corporation	D2017–BUSC–030	Wilmington Transit Corridor Reconfiguration/Improvements.	**$2,450,000**	Highly Recommended.
FL	Lee County Board of County Commissioners.	D2017–BUSC–031	LeeTran South County Transfer Station and Park and Ride Lot.	**$3,000,000**	Highly Recommended.
FL	Manatee County Board of County Commissioners/ MCAT.	D2017–BUSC–032	Manatee County Revenue Fleet Rehabilitation.	**$1,913,000**	Highly Recommended.
FL	Miami-Dade County	D2017–BUSC–033	Miami-Dade Department of Transportation and Public Works CNG Bus Purchases for DTPW Bus Replacement Program.	**$3,600,000**	Highly Recommended.
GA	Georgia Regional Transportation Authority.	D2017–BUSC–034	2 Projects: (1) Xpress Park-and-Ride Technology Refresh/ (2) Xpress West Operations and Light Maintenance Facility.	**$3,600,000**	Highly Recommended.
GA	Metropolitan Atlanta Rapid Transit Authority (MARTA).	D2017–BUSC–035	MARTA Articulated Near-Zero Emissions CNG Bus Acquisition/Replacement Program.	**$3,600,000**	Highly Recommended.
HI	Hawaii Department of Transportation.	D2017–BUSC–036	Purchase of replacement light and medium duty vans.	**$576,000**	Highly Recommended.
IA	Iowa Department of Transportation.	D2017–BUSC–037	2 Projects: (1) Iowa Rural Transit Bus Replacement Project/ (2) Iowa Urban Transit Bus Replacement Project.	**$3,600,000**	Highly Recommended.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS—Continued

State	Applicant	Project ID	Project description	Funded amount	Project rating
ID	Coeur d' Alene Tribe	D2017–BUSC–038	Replacement bus for the Coeur d' Alene Tribe Citylink public bus transit service.	**$115,200**	Highly Recommended.
ID	Idaho Transportation Department.	D2017–BUSC–039	Mountain Rides buses and vans replacement project.	**$540,000**	Highly Recommended.
ID	Idaho Transportation Department.	D2017–BUSC–040	Vehicle Replacements for Grand Targhee Shuttle.	**$240,000**	Highly Recommended.
ID	Idaho Transportation Department.	D2017–BUSC–041	Bus Replacement	**$136,000**	Highly Recommended.
IL	Greater Peoria Mass Transit District.	D2017–BUSC–042	Replacement of a Bus Maintenance and Operations Facility at the current GPMTD Bus Maintenance and Operations Facility location.	**$3,600,000**	Highly Recommended.
IL	Madison County Mass Transit District.	D2017–BUSC–043	MCT 30-foot Heavy Duty Clean Diesel Transit Bus Replacement.	**$3,600,000**	Highly Recommended.
IL	Rock Island Co. Metropolitan Mass Transit District.	D2017–BUSC–044	MetroLINK Electric Corridor Project.	**$3,165,000**	Highly Recommended.
IL	Springfield Mass Transit District.	D2017–BUSC–045	Replacement of Compressed Natural Gas (CNG) buses.	**$2,201,724**	Highly Recommended.
IN	Bloomington Public Transportation Corporation.	D2017–BUSC–046	Bus Replacement	**$720,000**	Highly Recommended.
IN	Fort Wayne Public Transportation Corporation/Citilink.	D2017–BUSC–047	Heavy Duty Bus Replacement; On-board camera safety system upgrade; bus maintenance training.	**$2,502,028**	Highly Recommended.
IN	Greater Lafayette Public Transportation Corporation.	D2017–BUSC–048	CityBus of Lafayette Pedestrian and Cyclist Detection Systems.	**$485,760**	Highly Recommended.
KS	City of Wichita	D2017–BUSC–049	Bus Purchase—Downtown Trolley Replacement.	**$2,600,000**	Highly Recommended.
KY	Transit Authority of River City	D2017–BUSC–050	Bus Replacement	**$3,600,000**	Highly Recommended.
KY	Kentucky Transportation Cabinet.	D2017–BUSC–051	Rural Transit Expansion & Replacement Vehicles.	**$3,600,000**	Highly Recommended.
KY	City of Owensboro	D2017–BUSC–052	Replacement Fixed-Route Buses.	**$677,406**	Highly Recommended.
LA	Capital Area Transit System	D2017–BUSC–053	Replace Vans with Buses	**$2,600,000**	Highly Recommended.
MA	Berkshire Regional Transit Authority.	D2017–BUSC–054	Replacement of 35 Foot Low Floor Diesel Buses.	**$660,721**	Highly Recommended.
MA	Massachusetts Department of Transportation.	D2017–BUSC–055	Construction of New Franklin Regional Transit Authority Maintenance and Operations Facility.	**$6,000,000**	Highly Recommended.
MD	Maryland Transit Administration.	D2017–BUSC–056	Beyond the Bus Stop: Facility Improvements for Operators and Passengers.	**$2,600,000**	Highly Recommended.
ME	City of Bangor	D2017–BUSC–057	Replacement Buses	**$1,944,540**	Highly Recommended.
MI	City of Detroit Department of Transportation.	D2017–BUSC–058	Coolidge Terminal and Maintenance Facility Rehabilitation.	**$3,600,000**	Highly Recommended.
MI	Michigan Department of Transportation.	D2017–BUSC–059	2 Projects: (1) Expand Current Operations Center for Harbor Transit Multi-Modal Transit System (HTTMTS)/ (2) Transit Revenue Vehicle Replacements for Rural Agencies and Small Urban Agencies.	**$3,600,000**	Highly Recommended.
MN	Duluth Transit Authority	D2017–BUSC–060	Duluth Transit Authority Fare Collection System Replacement Project.	**$1,800,320**	Highly Recommended.
MO	City of St. Joseph, Missouri	D2017–BUSC–061	Bus Replacement	**$4,725,000**	Highly Recommended.
MO	Missouri Department of Transportation.	D2017–BUSC–062	Missouri Rural Transit Asset Replacement Project for the purchase of transit buses or vans for rural public transportation.	**$3,600,000**	Highly Recommended.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS—Continued

State	Applicant	Project ID	Project description	Funded amount	Project rating
MS	Mississippi Coast Transportation Authority dba Coast Transit.	D2017–BUSC–063	Phase II Improvements, South Approach and Transit Tram Bridge across US 90 from the Coast Transit Authority (CTA) Gulfport Transit Center to Jones Park Bus Station, Gulfport, MS.	**$2,600,000**	Highly Recommended.
MT	Missoula Urban Transportation District.	D2017–BUSC–064	Comprehensive Capital Investments.	**$2,726,888**	Highly Recommended.
MT	Confederated Salish & Kootenai Tribes.	D2017–BUSC–065	CSKT/Flathead Transit Bus and Bus Facilities Infrastructure and Workforce Development Project.	**$580,000**	Highly Recommended.
NC	Cape Fear Public Transportation Authority.	D2017–BUSC–066	Compressed Natural Gas Buses.	**$3,600,000**	Highly Recommended.
NC	Jacksonville Transit	D2017–BUSC–067	Jacksonville Multi-Modal Center (MMC).	**$4,500,000**	Highly Recommended.
ND	City of Grand Forks	D2017–BUSC–068	Public Transportation Facility Rehabilitation/Renewal & Expansion Project.	**$3,600,000**	Highly Recommended.
NE	City of Lincoln, Nebraska	D2017–BUSC–069	StarTran Facility Relocation Project—Phase I.	**$2,600,000**	Highly Recommended.
NH	City of Nashua/Nashua Transit System.	D2017–BUSC–070	2 Projects: (1) Rolling Stock Procurement/ (2) Transit Center Retrofit.	**$1,080,000**	Highly Recommended.
NH	New Hampshire Department of Transportation.	D2017–BUSC–071	Cooperative Alliance for Seacoast Transportation (COAST) (Urban Provider) Rolling Stock Bus Replacement.	**$1,520,000**	Highly Recommended.
NJ	NJ TRANSIT Corporation	D2017–BUSC–072	Bus Garage Roof Replacements.	**$2,600,000**	Highly Recommended.
NJ	Cape May County Fare Free Transportation.	D2017–BUSC–073	Fare Free Transportation Administration Building.	**$1,200,000**	Highly Recommended.
NM	City of Santa Fe	D2017–BUSC–074	Santa Fe Transit Rehabilitation Center on Entrada.	**$2,036,562**	Highly Recommended.
NM	New Mexico Department of Transportation.	D2017–BUSC–075	NCRTD Maintenance Facility, Vehicle Wash Bay and Fueling Station.	**$3,600,000**	Highly Recommended.
NV	Regional Transportation Commission of Southern Nevada.	D2017–BUSC–076	Enhancing Safety and Reliability by Proactive Investment in Transit Capital.	**$4,588,766**	Highly Recommended.
NV	Carson Area Metropolitan Planning Organization (CAMPO).	D2017–BUSC–077	Replacement of fixed route vehicles for the Jump Around Carson (JAC) transit fleet.	**$447,480**	Highly Recommended.
NV	Pyramid Lake Paiute Tribe	D2017–BUSC–078	Pyramid Lake Paiute Tribal Transit Project: New Transit Facility.	**$1,500,000**	Highly Recommended.
NY	Broome County Department of Public Transportation.	D2017–BUSC–079	Low/No Emissions Fixed Route Buses.	**$2,040,000**	Highly Recommended.
NY	City of Glen Cove	D2017–BUSC–080	City of Glen Cove Loop Bus Vehicle.	**$59,500**	Highly Recommended.
NY	County of Westchester	D2017–BUSC–081	Replace Bee-Line Articulated Bus Fleet with Hybrid Electric Buses.	**$3,600,000**	Highly Recommended.
OH	Butler County Regional Transit Authority.	D2017–BUSC–082	Butler County Connect—Chestnut Street Multimodal Station and Shared Services Facility.	**$2,668,750**	Highly Recommended.
OH	Greater Cleveland Regional Transit Authority (GCRTA).	D2017–BUSC–083	Triskett CNG Building Compliance Project.	**$2,668,750**	Highly Recommended.
OH	Greater Dayton Regional Transit Authority.	D2017–BUSC–084	Bus Replacement	**$2,325,000**	Highly Recommended.
OH	Portage Area Regional Transportation Authority.	D2017–BUSC–085	Indoor PARTA Storage Facility.	**$2,668,750**	Highly Recommended.
OH	Southwest Ohio Regional Transit Authority.	D2017–BUSC–086	Bus Replacement And New Delivery (BRAND).	**$2,668,750**	Highly Recommended.
OK	Metropolitan Tulsa Transit Authority.	D2017–BUSC–087	Tulsa Transit Bus Replacement Program.	**$4,202,870**	Highly Recommended.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS—Continued

State	Applicant	Project ID	Project description	Funded amount	Project rating
OK	Oklahoma Department of Transportation.	D2017–BUSC–088	Replacement Rural Transit Vehicles.	**$3,600,000**	Highly Recommended.
OK	Oklahoma Department of Transportation.	D2017–BUSC–089	Oklahoma State/Stillwater Community Transit Transportation Operations and Maintenance Facility.	**$2,400,000**	Highly Recommended.
OR	Rogue Valley Transportation District.	D2017–BUSC–090	A Transit Signal Priority System for Southern Oregon.	**$1,020,014**	Highly Recommended.
OR	Rogue Valley Transportation District.	D2017–BUSC–091	Replacement ADA Accessible Low-Floor Clean Natural Gas Buses.	**$3,018,750**	Highly Recommended.
OR	Salem Area Mass Transit District.	D2017–BUSC–092	Bus Replacement	**$2,475,000**	Highly Recommended.
PA	Luzerne County Transportation Authority.	D2017–BUSC–093	CNG Replacement Buses	**$1,700,000**	Highly Recommended.
PA	Port Authority of Allegheny County.	D2017–BUSC–094	Bus Replacement	**$3,600,000**	Highly Recommended.
PA	Pennsylvania Department of Transportation.	D2017–BUSC–095	Bradford Transportation Center.	**$2,639,499**	Highly Recommended.
PA	Transportation & Motor Buses for Public Use Authority.	D2017–BUSC–096	Bus Replacement	**$1,800,000**	Highly Recommended.
PR	Autonomous Municipality of Caguas.	D2017–BUSC–097	Renovation of the Francisco Pereira Transportation Terminal/Replacement of Vans.	**$2,600,000**	Highly Recommended.
RI	Rhode Island Public Transit Authority.	D2017–BUSC–098	East Side Tunnel Improvements.	**$903,870**	Highly Recommended.
SC	South Carolina Department of Transportation.	D2017–BUSC–099	SCDOT Vehicle Replacement	**$4,500,000**	Highly Recommended.
SD	SD Department of Transportation.	D2017–BUSC–100	Acquisition of ADA vans, small buses, medium duty buses and light duty buses.	**$1,874,400**	Highly Recommended.
TN	City of Knoxville, Tennessee	D2017–BUSC–101	Electric Buses and Charging Equipment.	**$3,600,000**	Highly Recommended.
TN	Tennessee Department of Transportation.	D2017–BUSC–102	Public Transit Fixed Route and Demand Response Vehicle Replacement.	**$6,000,000**	Highly Recommended.
TX	Denton County Transportation Authority.	D2017–BUSC–103	Bus Operations and Maintenance Facility.	**$2,625,000**	Highly Recommended.
TX	Golden Crescent Regional Planning Commission.	D2017–BUSC–104	Vehicle Replacements and Shelter Projects.	**$1,222,799**	Highly Recommended.
TX	Gulf Coast Center	D2017–BUSC–105	Connect Transit Administration and Operations Center and Park and Ride Facility.	**$3,001,068**	Highly Recommended.
TX	Metropolitan Transit Authority of Harris County, Texas.	D2017–BUSC–106	2 Projects: (1) North Post Oak Transitway Project/ (2) Universal Accessibility Improvements at Bus Stops.	**$3,600,000**	Highly Recommended.
UT	Utah Transit Authority	D2017–BUSC–107	Depot District Clean Fuel Tech Center.	**$2,600,000**	Highly Recommended.
VA	Potomac and Rappahannock Transportation Commission.	D2017–BUSC–108	Bus Replacement	**$3,600,000**	Highly Recommended.
VA	Town of Blacksburg/ Blacksburg Transit.	D2017–BUSC–109	Purchase of 60-foot Articulated Buses.	**$1,440,000**	Highly Recommended.
VI	Virgin Islands Department of Public Works.	D2017–BUSC–110	Bus Shelter Replacements and Constructing Bus Shelters in Locations with Only Bus Stop Signs.	**$445,640**	Highly Recommended.
VT	Vermont Agency of Transportation.	D2017–BUSC–111	Green Mountain Transit Expansion Vehicles.	**$800,000**	Highly Recommended.
VT	Vermont Agency of Transportation.	D2017–BUSC–112	Statewide Bus Replacement	**$1,800,000**	Highly Recommended.
WA	Ben Franklin Transit	D2017–BUSC–113	Rehabilitation & Enhancement of the Operations Building.	**$1,200,000**	Highly Recommended.
WA	Central Puget Sound Regional Transit Authority.	D2017–BUSC–114	Replace Expired Buses with New High Capacity Transit Buses.	**$1,375,000**	Highly Recommended.
WA	City of Everett, Everett Transit.	D2017–BUSC–115	Replacement of Diesel Buses with No Emission Electric Buses.	**$1,375,000**	Highly Recommended.

TABLE 1—FY 16 GRANTS FOR BUSES AND BUS FACILITIES COMPETITION PROJECT SELECTIONS—Continued

State	Applicant	Project ID	Project description	Funded amount	Project rating
WA	Intercity Transit	D2017–BUSC–116	Pattison Street Facility Renovation and Expansion Project.	**$1,375,000**	Highly Recommended.
WA	King County Department of Transportation.	D2017–BUSC–117	2 Projects: (1) Eastlake Off-Street Layover Facility/ (2) King County Metro Fleet Replacement—Battery Electric Buses.	**$1,375,000**	Highly Recommended.
WA	Muckleshoot Indian Tribe	D2017–BUSC–118	Muckleshoot Transit Bus Facility Rehabilitation.	**$800,000**	Highly Recommended.
WA	Pierce County Public Transportation Benefit Area Corporation.	D2017–BUSC–119	CNG Bus Replacement	**$1,375,000**	Highly Recommended.
WA	Skagit Transit System	D2017–BUSC–120	Skagit Transit System Maintenance Operations and Administration Facility Project.	**$1,375,000**	Highly Recommended.
WA	Snohomish County Transportation Benefit Area.	D2017–BUSC–121	Double Decker Replacement Buses.	**$1,375,000**	Highly Recommended.
WA	Spokane Transit Authority	D2017–BUSC–122	Fixed Route Coaches	**$1,375,000**	Highly Recommended.
WI	City of Oshkosh	D2017–BUSC–123	Bus Replacement	**$1,200,000**	Highly Recommended.
WI	Wisconsin Department of Transportation (WisDOT).	D2017–BUSC–124	City of Hartford Replacement non-accessible Mini-van.	**$32,000**	Highly Recommended.
WI	Wisconsin Department of Transportation (WisDOT).	D2017–BUSC–125	Rural Transit Technology Improvements.	**$134,880**	Highly Recommended.
WI	City of Appleton	D2017–BUSC–126	2 Projects: (1) Bus Replacement/ (2) Facilities Renovation Project.	**$350,506**	Highly Recommended.
WI	City of Janesville	D2017–BUSC–127	Replacement Buses	**$350,506**	Highly Recommended.
WI	City of Sheboygan	D2017–BUSC–128	Roof Replacement for Shoreline Metro Administrative and Maintenance Facility.	**$350,506**	Highly Recommended.
WI	Wisconsin Department of Transportation (WisDOT).	D2017–BUSC–129	City of West Bend—Replacement non-accessible minivan and replacement ADA-accessible cutaway minibuses.	**$181,600**	Highly Recommended.
WV	Eastern Panhandle Transit Authority.	D2017–BUSC–130/ D2017–BUSC–131	Transit Operations and Transfer Center.	**$4,491,510/ $8,490**	Highly Recommended.
			Total	**$264,446,775**	

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2018 Competitive Funding Opportunity; Grants for Buses and Bus Facilities Infrastructure Investment Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for approximately $366.3 million in fiscal year (FY) 2018 funds under the Grants for Buses and Bus Facilities Infrastructure Investment Program (CFDA #20.526). As required by federal transit law and subject to funding availability, funds will be awarded competitively to assist in the financing of capital projects to replace, rehabilitate, purchase or lease buses and related equipment, and to rehabilitate, purchase, construct or lease bus-related facilities. Projects may include costs incidental to the acquisition of buses or to the construction of facilities, such as the costs of related workforce development and training activities, and project administration expenses. FTA may award additional funds if they are made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern Time on August 6, 2018. Prospective applicants should initiate the process by promptly registering on the *GRANTS.GOV* website to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *http://transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*. The *GRANTS.GOV* funding opportunity ID is FTA–2018–005–TPM. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mark Bathrick, FTA Office of Program Management, 202–366–9955, or *mark.bathrick@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Application and Submission Information
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F. Review and Selection Process

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A. Program Description

Section 5339(b) of Title 49, United States Code, as amended by the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94, Dec. 4, 2015), authorizes FTA to award funds for the Grants for Buses and Bus Facilities Infrastructure Investment Program (Buses and Bus Infrastructure Program) through a competitive process, as described in this notice, for capital projects to replace, rehabilitate, purchase or lease buses and related equipment and to rehabilitate, purchase, construct or lease bus-related facilities.

The purpose of the Buses and Bus Infrastructure Program is to assist in the financing of buses and bus facilities capital projects, including replacing, rehabilitating, purchasing or leasing buses or related equipment, and rehabilitating, purchasing, constructing or leasing bus-related facilities.

The Buses and Bus Infrastructure Program provides funds to designated recipients that allocate funds to fixed route bus operators, and to States, and local governmental authorities that operate fixed route bus service. FTA also may award grants to eligible recipients for projects to be undertaken by subrecipients that are public agencies or private non-profit organizations engaged in public transportation. In accordance with 49 U.S.C. 5339(b)(2), FTA will ''consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities'' in selecting projects for funding. FTA may prioritize projects that demonstrate how they will address significant repair and maintenance needs, improve the safety of transit systems, and deploy connective projects that include advanced technologies to connect bus systems with other networks.

B. Federal Award Information

Federal transit law at 49 U.S.C. 5338(a)(2)(M) authorizes $246,514,000 in FY 2018 funds for the Section 5339(b) Buses and Bus Infrastructure Program. The Consolidated Appropriations Act, 2018 appropriated an additional $161,446,000 for the Buses and Bus Infrastructure Program. After the oversight takedown and previously announced allocations of $37,973,775 in FY 2018 Buses and Bus Infrastructure Program funds to projects competitively selected during the FY 2017 Buses and Bus Infrastructure Program competition on April 5, 2018, $366,293,150 is available for the Buses and Bus Infrastructure Program through this notice.

As required under 49 U.S.C. 5339(b)(5), a minimum of 10 percent of the amount awarded under the Buses and Bus Infrastructure Program will be awarded to projects located in rural areas. As required by 49 U.S.C. 5339(b)(8), no single grantee will be awarded more than 10 percent of the amounts made available.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. Funds are only available for projects that have not incurred costs prior to the selection of projects and will remain available for obligation for three Federal fiscal years, not including the year in which the funds are allocated to projects.

C. Eligibility Information

1. Eligible Applicants

Under 49 U.S.C. 5339(b)(1), eligible applicants include designated recipients that allocate funds to fixed route bus operators, states or local governmental entities that operate fixed route bus service, and Indian tribes. Eligible subrecipients include all otherwise eligible applicants and also private nonprofit organizations engaged in public transportation.

Under 49 U.S.C. 5339(b)(3), States may submit a statewide application on behalf of public agencies or private nonprofit organizations engaged in public transportation in rural areas or for other areas for which a State allocates funds. Except for projects proposed by Indian tribes, all proposals for projects in rural (non-urbanized) areas must be submitted by a State, either individually or as a part of a statewide application. States and other eligible applicants may also submit consolidated proposals for projects in urbanized areas. The submission of a statewide or consolidated urbanized area application shall not preclude the submission and consideration of any application from other eligible recipients in an urbanized area in a State. Proposals may contain projects to be implemented by the recipient or its subrecipients.

To be considered eligible, applicants must be able to demonstrate the requisite legal, financial and technical capabilities to receive and administer Federal funds under this program.

2. Cost Sharing or Matching

The maximum federal share for projects selected under the Buses and Bus Infrastructure Program is 80 percent of the net project cost, unless noted below by one of the exceptions.

i. The maximum federal share is 85 percent of the net project cost of acquiring vehicles (including clean-fuel or alternative fuel vehicles) that are compliant with the Clean Air Act (CAA) and/or the Americans with Disabilities Act (ADA) of 1990.

ii. The maximum federal share is 90 percent of the net project cost of acquiring, installing or constructing vehicle-related equipment or facilities (including clean fuel or alternative-fuel vehicle-related equipment or facilities) that are required by the ADA of 1990, or that are necessary to comply with or maintaining compliance with the Clean Air Act. The award recipient must itemize the cost of specific, discrete, vehicle-related equipment associated with compliance with ADA or CAA to be eligible for the maximum 90 percent Federal share for these costs.

Eligible sources of local match include the following: Cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; or funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; or new capital. In addition, transportation development credits or documentation of in-kind match may substitute for local match if identified in the application.

3. Eligible Projects

Under 49 U.S.C. 5339(b)(1), eligible projects are capital projects to replace, rehabilitate purchase, or lease buses, vans, and related equipment, and capital projects to rehabilitate, purchase, construct, or lease bus-related facilities.

Recipients are permitted to use up to 0.5 percent of their requested grant award for workforce development activities eligible under 49 U.S.C. 5314(b) and an additional 0.5 percent for costs associated with training at the National Transit Institute. Applicants must identify the proposed use of funds for these activities in the project proposal and identify them separately in the project budget.

D. Application and Submission Information

1. Address

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can

be found at *https://www.transit.dot.gov/funding/grants/applying/applying-fta-funding* along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms: The SF424 Application for Federal Assistance (downloaded from *GRANTS.GOV*) and the supplemental form for the FY 2018 Buses and Bus Infrastructure Program (downloaded from *GRANTS.GOV* or the FTA website at *www.transit.dot.gov/busprogram*). Applicants may also attach additional supporting information. Failure to submit the information as required can delay or prevent review of the application.

2. Content and Form of Application Submission

A complete proposal submission consists of two forms: The SF424 Application for Federal Assistance and the FY 2018 Buses and Bus Infrastructure Program supplemental form. The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF424. A complete application must include responses to all sections of the SF424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will accept only one supplemental form per SF424 submission. FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If a State or other applicant chooses to submit separate proposals for individual consideration by FTA, each proposal must be submitted using a separate SF424 and supplemental form.

Applicants may attach additional supporting information to the SF424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as proposer name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF424 and Supplemental Form. Proposers must fill in all fields unless stated otherwise on the forms. Applicants should not place N/A or ''refer to attachment'' in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Proposers should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent.

The SF424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Applicant Name
b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number
c. Key contact information (including contact name, address, email address, and phone)
d. Congressional district(s) where project will take place
e. Project Information (including title, an executive summary, and type)
f. A detailed description of the need for the project
g. A detailed description on how the project will support the Bus Infrastructure Program's objectives
h. Evidence that the project is consistent with local and regional planning objectives
i. Evidence that the applicant can provide the local cost share
j. A description of the technical, legal, and financial capacity of the applicant
k. A detailed project budget
l. An explanation of the scalability of the project
m. Details on the local matching funds
n. A detailed project timeline

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant: (1) Is an individual; (2) is excepted from the requirements under 2 CFR 25.110(b) or (c); or (3) has an exception approved by FTA under 2 CFR 25.110(d). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. All applicants must provide a unique entity identifier provided by SAM. Registration in SAM may take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if you need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern on August 6, 2018. Mail and fax submissions will not be accepted.

FTA urges proposers to submit applications at least 72 hours prior to the due date to allow time to correct any problems that may have caused either *Grants.gov* or FTA systems to reject the submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Deadlines will not be extended due to scheduled website maintenance. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV*: (1) Confirmation of successful transmission to *GRANTS.GOV* and (2) confirmation of successful validation by *GRANTS.GOV*. If confirmations of successful validation are not received or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, applicants must include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Proposers are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered proposers may still be required to take

steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually; and, (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement until FTA has issued pre-award authority for selected projects.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount whether or not a scalable option is provided.

E. Application Review

FTA will evaluate project proposals for the Buses and Bus Infrastructure Program based on the criteria described in this notice. Projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found.

a. Demonstration of Need

Applications will be evaluated based on the quality and extent to which they demonstrate how the proposed project will address an unmet need for capital investment in bus vehicles and/or supporting facilities. For example, an applicant may demonstrate an excessive reliance on vehicles that are beyond their intended service life, insufficient maintenance facilities due to size or condition, a vehicle fleet that is insufficient to meet current ridership demands, or passenger facilities that are insufficient for their current use. Applicants should address whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA formula program allocations and State or local resources. As a part of the response for demonstration of need, applicants should provide the following information:

i. For bus projects (replacement, rehabilitation or expansion): Applicants must provide information on the age, condition and performance of the asset(s) to be replaced or rehabilitated by the proposed project. For service expansion requests, applicants must provide information on the proposed service expansion and the benefits for transit riders and the community from the new service. For all vehicle projects, the proposal must address how the project conforms to FTA's spare ratio guidelines.

ii. For bus facility and equipment projects (replacement, rehabilitation, and/or expansion): Applicants must provide information on the age and condition of the asset to be rehabilitated or replaced relative to its minimum useful life.

b. Demonstration of Benefits

Applications will be evaluated based on how well they describe how the proposed project will improve the condition of the transit system, improve the reliability of transit service for its riders, and enhance access and mobility within the service area.

System Condition: FTA will evaluate the potential for the project to improve the condition of the transit system by repairing and/or replacing assets that are in poor condition or have surpassed their minimum or intended useful life benchmarks, lowering the average age of vehicles in the fleet, and/or reducing the cost of maintaining outdated vehicles, facilities and equipment.

Service Reliability: FTA will evaluate the potential for the project to reduce the frequency of breakdowns or other service interruptions as caused by the age and condition of the agency's bus fleet. Applicants should document their current service reliability metrics and benchmark goals, including their strategy for improving reliability with or without the award of Bus Infrastructure Program funds.

Enhanced Access and Mobility: FTA will evaluate the potential for the project to improve access and mobility for the transit riding public, such as through increased reliability, improved headways, creation of new transportation choices, or eliminating gaps in the current route network. Proposed benefits should be based on documented ridership demand and be well-described or documented through a study or route planning proposal.

c. Planning and Local/Regional Prioritization

Applicants must demonstrate how the proposed project will be consistent with local and regional long-range planning documents and local government priorities. This will involve assessing whether the project is consistent with the transit priorities identified in the long range plan; and/or contingency/illustrative projects included in that plan; or the locally developed human services public transportation coordinated plan. Applicants are not required to submit copies of such plans, but should describe how the project will support regional goals. Additional consideration will be given to applications including support letters from local and regional planning organizations, local government officials, public agencies, and/or non-profit or private sector partners attesting to the consistency of the proposed project with these plans. Applicants may also address how the proposed project will impact overall system performance, asset management performance, or specific performance measures tracked and monitored by the applying entity to demonstrate how the proposed project will address local and regional planning priorities.

Evidence of additional local or regional prioritization (*i.e.*, STIP and LRTP) should include letters of support for the project from local government officials, public agencies (*i.e.*, MPOs), and non-profit or private sector partners.

d. Local Financial Commitment

Applicants must identify the source of the local cost share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. FTA will consider the availability of the local cost share as evidence of local financial commitment to the project. Additional consideration will be given to those projects for which local funds have already been made available or reserved. Applicants should submit evidence of the availability of funds for the project, for example by including a board resolution, letter of support from the State, or other documentation of the source of local funds such as a budget document highlighting the line item or section committing funds to the proposed project.

e. Project Implementation Strategy

Projects will be evaluated based on the extent to which the project is ready to implement within a reasonable

period of time and whether the applicant's proposed implementation plans are reasonable and complete.

In assessing whether the project is ready to implement within a reasonable period of time, FTA will consider whether the project qualifies for a Categorical Exclusion (CE), or whether the required environmental work has been initiated or completed for projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA), as amended. The proposal must also state whether grant funds can be obligated within 12 months from time of award, if selected, and indicate the timeframe under which the Metropolitan Transportation Improvement Program (TIP) and/or Statewide Transportation Improvement Program (STIP) can be amended to include the proposed project. Additional consideration will be given to projects for which grant funds can be obligated within 12 months from time of award.

In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project implementation plan, including all necessary project milestones and the overall project timeline. For projects that will require formal coordination, approvals or permits from other agencies or project partners, the applicant must demonstrate coordination with these organizations and their support for the project, such as through letters of support.

f. Technical, Legal, and Financial Capacity

Applicants must demonstrate that they have the technical, legal and financial capacity to undertake the project. FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with outstanding legal, technical, or financial compliance issues from a Federal Transit Administration compliance review or Federal Transit grant-related Single Audit finding must explain how corrective actions taken will mitigate negative impacts on the project.

F. Review and Selection Process

In addition to other FTA staff that may review the proposals, a technical evaluation committee will evaluate proposals based on the published evaluation criteria. After applying the above preferences, the FTA Administrator will consider the following key Departmental objectives:

(A) Supporting economic vitality at the national and regional level;

(B) Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;

(C) Accounting for the life-cycle costs of the project to promote the state of good repair;

(D) Using innovative approaches to improve safety and expedite project delivery; and

(E) Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

The FTA Administrator will determine the final selection of projects for program funding. FTA may consider geographic diversity, diversity in the size of the transit systems receiving funding, and/or the applicant's receipt of other discretionary awards in determining the allocation of program funds. Not less than 10 percent of the Buses and Bus Infrastructure Program funds will be distributed to projects in rural areas. In addition, FTA will not award more than 10 percent of the funds to a single grantee.

G. Federal Award Administration

i. Federal Award Notice

Subsequent to an announcement by the FTA Administrator of the final project selections, which will be posted on the FTA website, FTA will publish a list of the selected projects, a summary of final scores for selected projects, Federal award amounts and recipients in the **Federal Register**. Project recipients should contact their FTA regional offices for additional information regarding allocations for projects under the Buses and Bus Infrastructure Program.

At the time the project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement.

ii. Award Administration

Funds under the Buses and Bus Infrastructure Program are available to designated recipients that allocate funds to fixed route bus operators, or state or local governmental entities, including Indian tribes, that operate fixed route bus service. There is no minimum or maximum grant award amount; however, FTA intends to fund as many meritorious projects as possible. Only proposals from eligible recipients for eligible activities will be considered for funding. Due to funding limitations, proposers that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable stand-alone projects that can be completed with the amount awarded.

iii. Administrative and National Policy Requirements

a. Pre-Award Authority

The FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. The FTA does not provide pre-award authority for discretionary funds until projects are selected and even then there are Federal requirements that must be met before costs are incurred. Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement until FTA has issued pre-award authority for selected projects through a notification in the **Federal Register**, or unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred. For more information about FTA's policy on pre-award authority, please see the FY 2017 Apportionment Notice published on January 19, 2017.

b. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). Recipients of Buses and Bus Infrastructure Program funding in urban areas are subject to the grant requirements of section 5307 Urbanized Area Formula Grant program, including those of FTA Circular 9030.1E. Recipients of Buses and Bus Infrastructure Program funding in rural areas are subject to the grant requirements of section 5311 Formula Grants for Rural Areas Program, including those of FTA Circular 9040.1G. All recipients must follow the Grants Management Requirements of FTA Circular 5010.1E, and the labor protections of 49 U.S.C. 5333(b). Technical assistance regarding these

requirements is available from each FTA regional office.

c. Buy America

The FTA requires that all capital procurements meet FTA's Buy America requirements, which require that all iron, steel, or manufactured products be produced in the U.S. These requirements help create and protect manufacturing jobs in the U.S. The Bus Infrastructure Program will have a significant economic impact toward meeting the objectives of the Buy America law. The FAST Act amended the Buy America requirements to provide for a phased increase in the domestic content for rolling stock. For FY 2018 and FY 2019, the cost of components and subcomponents produced in the United States must be more than 65 percent of the cost of all components. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA issued final guidance on the implementation of the phased increase in domestic content on September 1, 2016. Any proposal that will require a waiver must identify the items for which a waiver will be sought in the application.

d. Disadvantaged Business Enterprise

FTA requires that its recipients receiving planning, capital and/or operating assistance that will award prime contracts exceeding $250,000 in FTA funds in a Federal fiscal year comply with the Disadvantaged Business Enterprise (DBE) program regulations at 49 CFR part 26. Applicants should expect to include any funds awarded, excluding those to be used for vehicle procurements, in setting their overall DBE goal. Note, however, that projects including vehicle procurements remain subject to the DBE program regulations. The rule requires that, prior to bidding on any FTA-assisted vehicle procurement, entities that manufacture vehicles, perform post-production alterations or retrofitting must submit a DBE Program plan and goal methodology to FTA. Further, to the extent that a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retro-fitting (*e.g.,* replacing major components such as engine to provide a ''like new'' vehicle), the vehicle remanufacturer is considered a transit vehicle manufacturer and must also comply with the DBE regulations.

FTA will then issue a transit vehicle manufacturer (TVM) concurrence/certification letter. Grant recipients must verify each entity's compliance with these requirements before accepting its bid. A list of compliant, certified TVMs is posted on FTA's web page at *https://www.fta.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list.* Please note, that this list is nonexclusive and recipients must contact FTA before accepting bids from entities not listed on this web-posting. Recipients may also establish project specific DBE goals for vehicle procurements. The FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Janelle Hinton, Office of Civil Rights, 202–366–9259, email: *janelle.hinton@dot.gov.*

e. Planning

FTA encourages proposers to notify the appropriate State Departments of Transportation and MPOs in areas likely to be served by the project funds made available under this program. Selected projects must be incorporated into the long-range plans and transportation improvement programs of states and metropolitan areas before they are eligible for FTA funding.

f. Standard Assurances

By submitting a grant application, the applicant assures that it will comply with all applicable federal statutes, regulations, executive orders, directives, FTA circulars, and other federal administrative requirements in carrying out any project supported by the FTA grant. Further, the applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

g. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system.

H. Technical Assistance and Other Program Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C. Complete applications must be submitted through *GRANTS.GOV* by 11:59 p.m. eastern time on August 6, 2018. For assistance with *GRANTS.GOV* please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at *support@grants.gov.* Contact information for FTA's regional offices can be found on FTA's website at *https://www.transit.dot.gov/about/regional-offices/regional-offices.*

I. Federal Awarding Agency Contacts

For further information concerning this notice please contact the Buses and Bus Infrastructure Program manager, Mark Bathrick, via email at *mark.bathrick@dot.gov,* or by phone at 202–366–9955. A TDD is available for individuals who are deaf or hard of hearing at 800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's website at *http://transit.dot.gov/busprogram.* FTA staff will also conduct a webinar for potential applicants to learn more about the program and submittal process. To ensure applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA directly, rather than through intermediaries or third parties, with questions.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2018–13554 Filed 6–22–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of

these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; 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 June 11, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. FITWI, Abd al-Razzak (a.k.a. ABDELRAZAK, Ismail; a.k.a. ESMAIL, Abdurazak; a.k.a. FITIWI, Abdurazak), Tripoli, Libya; Sabratha, Libya; Benghazi, Libya; DOB 1985 to 1987; POB Massawa, Eritrea; nationality Sudan; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of Executive Order 13726 of April 19, 2016, ''Blocking Property and Suspending Entry Into the United States of Persons Contributing to the Situation in Libya'' (E.O. 13726) for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

2. ABU GREIN, Musab (a.k.a. ABU-QURAYN, Mus'ab), Sabratha, Libya; DOB 1982 to 1983; nationality Libya; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of E.O. 13726 for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

3. GHERMAY, Ermias, Sabratha, Libya; Khartoum, Sudan; Tripoli, Libya; DOB 1972 to 1977; POB Addis Ababa, Ethiopia; nationality Ethiopia; citizen Eritrea; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of E.O. 13726 for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

4. DABBASHI, Ahmed (a.k.a. AL DABBASHI, Ahmad Mohammed Omar Al Fituri; a.k.a. ''Amu''), Sabratha, Libya; DOB 05 Jul 1988; nationality Libya; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of E.O. 13726 for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

5. KOSHLAF, Mohamed (a.k.a. KASHLAF, Mohamed; a.k.a. KHUSHLAF, Mohamed; a.k.a. KOSHLAF, Mohamed al-Aameen al-Arabi; a.k.a. ''Al Qasseb''), Zawiya, Libya; DOB 12 Dec 1985; POB Zawiya, Libya; nationality Libya; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of E.O. 13726 for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

6. MILAD, Abd al-Rahman (a.k.a. MILAD, Abdurahman Al; a.k.a. ''al-Bija''), Zawiya, Libya; DOB 27 Jul 1986; nationality Libya; Gender Male (individual) [LIBYA3].

Designated pursuant to Section 1(a)(v) of E.O. 13726 for being a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, or stability of Libya.

Dated: June 11, 2018.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2018–13550 Filed 6–22–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; 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 June 12, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. ROSARIO, Felix Ramon Bautista; DOB 16 Jun 1963; POB S. J. de la Maguana, Dominican Republic; nationality Dominican Republic; Gender Male; Passport SR0007428 (Dominican Republic); alt. Passport SC3002191 (Dominican Republic); National ID No. 00101651586 (Dominican Republic) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption'' (E.O. 13818) for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption.

Also designated pursuant to section 1(a)(ii)(B)(2) of E.O. 13818 for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, the transfer or the facilitation of the transfer of the proceeds of corruption.

2. HIENG, Hing Bun (a.k.a. BUNHEANG, Hing; a.k.a. BUNHEUNG, Hing; a.k.a. HEANG, Him Bun; a.k.a. HEANG, Hing Bun), Takhmao, Cambodia; 22, St. 118, Phnom Penh, Cambodia; DOB 01 Jan 1957; POB Cambodia; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 for being or having been a leader or official of the Prime Minister Bodyguard Unit, an entity that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

3. CONSTRUCTORA HADOM SA, Av Ortega y Gasset Nro 32, Ensanche Naco, Santo Domingo, D.N., Dominican Republic; Tax ID No. 130773289 (Dominican Republic) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FELIX RAMON BAUTISTA ROSARIO, a person whose property and interests in property are blocked pursuant to E.O. 13818.

4. CONSTRUCTORA ROFI S A, George Washington, No. 402, Apto. Malecon Center, Ciudad Universitaria, Dominican Republic; Tax ID No. 130098085 (Dominican Republic) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FELIX RAMON BAUTISTA ROSARIO, a person whose property and interests in property are blocked pursuant to E.O. 13818.

5. INMOBILIARIA ROFI S A, Av. George Washinton #500, Malecon Center Plaza, Su, Gazcue, Dominican Republic; Tax ID No. 101880821 (Dominican Republic) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FELIX RAMON BAUTISTA ROSARIO, a person whose property and interests in property are blocked pursuant to E.O. 13818.

6. SEYMEH INGENIERIA SRL (a.k.a. SEYMEH ENGINEERING), AV/27 De Febrero, No. 10, Apto. Seymeh, Miraflores, Dominican Republic; Tax ID No. 130870802 (Dominican Republic) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FELIX RAMON BAUTISTA ROSARIO, a person whose property and interests in property are blocked pursuant to E.O. 13818.

7. SOLUCIONES ELECTRICAS Y MECANICAS HADOM S.R.L. (a.k.a. SEYMEH; a.k.a. SEYMEH S.R.L.), Ave 27 de Febrero #10 entre Maximo Gomez y, Santo Domingo, D.N., Dominican Republic; Tax ID No. 130819084 (Dominican Republic) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FELIX RAMON BAUTISTA ROSARIO, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Dated: June 12, 2018.

Bradley T. Smith,

Acting Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2018–13548 Filed 6–22–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. Additionally, OFAC is publishing an update to the identifying information of a person currently included in the list of Specially Designated Nationals and Blocked Persons. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; 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 June 15, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AFRICAN TRANS INTERNATIONAL HOLDINGS B.V., Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; V.A.T. Number NL852496527B01; Branch Unit Number 000026703254 (Netherlands); Chamber of Commerce Number 57239169 (Netherlands); Legal Entity Number 852496527 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption'' (E.O. 13818) for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

2. ALMERINA PROPERTIES LIMITED (a.k.a. ALMERINA INVESTMENTS), Virgin Islands, British [GLOMAG] (Linked To: ORIENTAL IRON COMPANY SPRL).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Also designated pursuant to section 1(a)(iii)(A)(2) of E.O. 13818 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

3. FLEURETTE AFRICA RESOURCES I B.V., Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; V.A.T. Number NL852496369B01; Branch Unit Number 000026702959 (Netherlands); Chamber of Commerce Number 57238812 (Netherlands); Legal Entity Number 852496369 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

4. FLEURETTE AFRICAN TRANSPORT B.V., Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; V.A.T. Number NL852777978B01; Branch Unit Number 000027280888 (Netherlands); Chamber of Commerce Number 57883149 (Netherlands); Legal Entity Number 852777978 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

5. FLEURETTE ENERGY I B.V., Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; V.A.T. Number NL852499097B01; Branch Unit Number 000026708302 (Netherlands); Chamber of Commerce Number 57244758 (Netherlands); Legal Entity Number 852499097 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

6. INTERLOG DRC (a.k.a. INTERLOG S.P.R.L.; f.k.a. ''BSD GROUP''; f.k.a. ''BSD S.P.R.L.''), 532 Av. Chemin Public, Commune Annexe, Lubumbashi, Congo, Democratic Republic of the; 4013 Route Du Golf, Lubumbashi, Congo, Democratic Republic of the; Route CDM, Industrial Zone, Lubumbashi, Congo, Democratic Republic of the; Cassumbalessa Border, Congo, Democratic Republic of the; Industrial Quarter, Lusaka, Zambia; National ID No. 6–71–N7269D (Congo, Democratic Republic of the) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

7. IRON MOUNTAIN ENTERPRISES LIMITED (a.k.a. IRON MOUNTAIN ENTREPRISES; a.k.a. ''IMEL''), Virgin Islands, British [GLOMAG] (Linked To: ORIENTAL IRON COMPANY SPRL).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Also designated pursuant to section 1(a)(iii)(A)(2) of E.O. 13818 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

8. KARIBU AFRICA SERVICES SA (a.k.a. KARIBU DRC; a.k.a. KARIBU WEST; f.k.a. MANICA DRC SPRL), Avenue Panda No. 790, Lubumbashi, Congo, Democratic Republic of the; Avenue Batetela No. 70, Kinshasa, Congo, Democratic Republic of the [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

9. KITOKO FOOD FARM (a.k.a. KITOKOFOOD, SPRL; a.k.a. LA FERME KITOKO FOOD; a.k.a. ''KITOKO''), 70 Avenue Batetela, Immeuble Tilapia, 5e etage, Gombe, Kinshasa, Congo, Democratic Republic of the; Along the N'sele River 50km (30 miles) outside Kinshasa, Congo, Democratic Republic of the [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

10. MOKU GOLDMINES AG, Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; Branch Unit Number 000034883819 (Netherlands); Chamber of Commerce Number 66242010 (Netherlands); Legal Entity Number 856458879 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

11. MOKU MINES D'OR SA (f.k.a. FERRO SWISS AG; a.k.a. MOKU GOLD; a.k.a. MOKU GOLD MINES; a.k.a. MOKU GOLDMINES AG; a.k.a. MOKU GOLDMINES LTD), Renggerstrasse 71, Zurich 8038, Switzerland; Registration Number CH27030140272 (Switzerland) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, FLEURETTE PROPERTIES LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

12. ORIENTAL IRON COMPANY SPRL (a.k.a. ''ORICO''), 18 Avenue de la paix, Ngaliema, Kinshasa, Congo, Democratic Republic of the [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, DAN GERTLER, a person whose property and interests in property are blocked pursuant to E.O. 13818.

13. SANZETTA INVESTMENTS LIMITED, Virgin Islands, British [GLOMAG] (Linked To: ORIENTAL IRON COMPANY SPRL).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, directly or indirectly, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Also designated pursuant to section 1(a)(iii)(A)(2) of E.O. 13818 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ORIENTAL IRON COMPANY SPRL, a person whose property and interests in property are blocked pursuant to E.O. 13818.

14. VENTORA DEVELOPMENT SASU, Congo, Democratic Republic of the [GLOMAG] (Linked To: AFRICA HORIZONS INVESTMENT LIMITED).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, AFRICA HORIZONS INVESTMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Also designated pursuant to section 1(a)(iii)(A)(2) of E.O. 13818 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AFRICA HORIZONS INVESTMENT LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13818.

Additionally, on June 15, 2018, OFAC updated the Specially Designated Nationals and Blocked Persons List entry for the following person, whose property and interests in property subject to U.S. jurisdiction continue to be blocked.

1. FLEURETTE PROPERTIES LIMITED (a.k.a. FLEURETTE DUTCH GROUP; a.k.a. FLEURETTE GROUP; a.k.a. GROUPE FLEURETTE; a.k.a. KARIBU AU DEVELOPMENT DURABLE AU CONGO; a.k.a. VENTORA MINING), Strawinskylaan 335, WTC, B-Tower 3rd floor, Amsterdam 1077 XX, Netherlands; Gustav Mahlerplein 60, 7th Floor, ITO Tower, Amsterdam 1082 MA, Netherlands; 70 Batetela Avenue, Tilapia Building, 5th floor, Kinshasa, Gombe, Congo, Democratic Republic of the; 57/63 Line Wall Road, Gibraltar GX11 1AA, Gibraltar; Public Registration Number 99450 (Gibraltar) [GLOMAG] (Linked To: GERTLER, Dan).

Dated: June 15, 2018.

Bradley T. Smith,

Acting Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2018–13549 Filed 6–22–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning return by a U.S. transferor of property.

DATES: Written comments should be received on or before August 24, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return by a U.S. Transferor of Property to a Foreign Corporation.

OMB Number: 1545–0026.

Form Number: 926.

Abstract: Form 926 is filed by any U.S. person who transfers certain tangible or intangible property to a foreign corporation to report information required by section 6038B.

Current Actions: The form has been updated to reflect changing regulations, resulting in a reduction in burden.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and Individuals or households.

Estimated Number of Respondents: 667.

Estimated Time per Respondent: 42 hours, 53 minutes.

Estimated Total Annual Burden Hours: 28,608.

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: June 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–13561 Filed 6–22–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Requirements Related to Energy Efficient Homes Credit; Manufactured Homes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the guidance for taxpayers regarding information collection requirements related to energy efficient homes credit; manufactured homes.

DATES: Written comments should be received on or before August 24, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Roberto Mora-Figueroa, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Energy Efficient Homes Credit; Manufactured Homes.

OMB Number: 1545–1994.

Regulation Project Number: Notice 2008–36, Notice 2008–35.

Abstract: This notice supersedes Notice 2006–28 by substantially republishing the guidance contained in that publication. This notice clarifies the meaning of the terms equivalent rating network and eligible contractor, and permits calculation procedures other than those identified in Notice 2006–28 to be used to calculate energy consumption. Finally, this notice clarifies the process for removing software from the list of approved software and reflects the extension of

the tax credit through December 31, 2008. Notice 2006–28, as updated, provided guidance regarding the calculation of heating and cooling energy consumption for purposes of determining the eligibility of a manufactured home for the New Energy Efficient Home Credit under Internal Revenue Code § 45L. Notice 2006–28 also provided guidance relating to the public list of software programs that may be used to calculate energy consumption. Guidance relating to dwelling units other than manufactured homes is provided in Notice 2008–35.

Current Actions: There is no change to the burden previously approved. Notice 2008–35 and Notice 2008–36 are related publications that were issued at the same time. While the section 45L credit is not available for new energy efficient homes acquired (by sale or lease) after December 31, 2017, taxpayers may claim the credit on amended returns for three years after the deadline for filing their 2017 tax returns.

Because these notices are still relied upon by taxpayers to claim the section 45L credit and it is plausible that taxpayers will continue to claim the credit on amended returns into 2020.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 15.

Estimated Time per Respondent: 4 hrs.

Estimated Total Annual Burden Hours: 60.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: June 19, 2018.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2018–13559 Filed 6–22–18; 8:45 am]

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FEDERAL REGISTER

Vol. 83 Monday,

No. 122 June 25, 2018

Part II

Nuclear Regulatory Commission

10 CFR Parts 170 and 171

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2017–0026]

RIN 3150–AJ95

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90) which requires the NRC to recover approximately 90 percent of its annual budget through fees.

DATES: This final rule is effective on August 24, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0026 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0026. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. For the convenience of the reader, the ADAMS accession numbers and instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Brian Harris, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6382, email: *Brian.Harris@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) OBRA–90 (42 U.S.C. 2214). The IOAA generally authorizes and encourages Federal regulatory agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. The OBRA–90 requires the NRC to recover approximately 90 percent of its budget authority for the fiscal year (FY) through fees; in FY 2018, amounts appropriated for waste-incidental-to-reprocessing (WIR), generic homeland security activities, advanced reactor regulatory infrastructure activities, international activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board are excluded from this fee-recovery requirement. The OBRA–90 requires the NRC to use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, and special projects). The regulations at part 170 of title 10 of the *Code of Federal Regulations* (10 CFR) authorize these fees. But, because the NRC's fee recovery under the IOAA (10 CFR part 170) does not equal 90 percent of the NRC's budget authority for the fiscal year, the NRC also assesses ''annual fees'' under 10 CFR part 171 to recover the remaining amount necessary to meet OBRA–90's fee-recovery requirement. These annual fees recover costs that are not otherwise collected through 10 CFR part 170.

II. Discussion

FY 2018 Fee Collection—Overview

The NRC is issuing the FY 2018 final fee rule based on the Consolidated Appropriations Act, 2018 (Pub. L. 115–141) (the enacted budget), in the amount of $922.0 million, an increase of $4.9 million from FY 2017. As explained previously, certain portions of the NRC's total budget are excluded from the NRC's fee-recovery amount—specifically, these exclusions include: $1.3 million for WIR activities, $1.1 million for IG services for the Defense Nuclear Facilities Safety Board, $10.0 million for advanced reactor regulatory infrastructure activities, and $15.2 million for generic homeland security activities. Also, for the first time, the enacted budget excludes $16.2 million for international activities from the fee-recoverable budget. Additionally, OBRA–90 requires the NRC to recover approximately 90 percent of the remaining budget authority—10 percent of the remaining budget authority is not recovered through fees. The NRC refers to the activities included in this 10-percent as ''fee-relief'' activities.

After accounting for the OBRA–90 exclusions, the adjustment associated with the United States Agency for International Development (USAID) rescission,[1] the fee-relief activities, and net billing adjustments (the sum of unpaid current year invoices (estimated) minus payments for prior year invoices), the NRC must bill approximately $789.3 million in FY 2018 to licensees and applicants. Of this amount, the NRC estimates that $280.8 million will be recovered through 10 CFR part 170 user fees, which leaves approximately $508.5 million to be recovered through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2018 final fee rule using the enacted budget and taking into account excluded activities, the fee-relief activities, and net billing adjustments (individual values may not sum to totals due to rounding). The Joint Explanatory Statement associated with the Consolidated Appropriations, Act 2018 includes direction for the NRC to use $15.0 million in carryover funds. The use of carryover funds allows the NRC

[1] The Consolidated Appropriations Act, 2018, rescinds approximately $0.1 million of unobligated balances from funds previously transferred to the NRC from the United States Agency for International Development (USAID). The Joint Explanatory Statement for the Consolidated Appropriations Act, 2018, includes an adjustment to the NRC's fee recovery amount associated with this rescission.

to accomplish the work needed without additional costs to licensees because consistent with the requirements of OBRA–90, fees are calculated based on the budget authority enacted for the current FY and not carryover funds.

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS [2]

[Dollars in millions]

	FY 2017 final rule	FY 2018 final rule	Percentage change
Total Budget Authority	$917.1	$922.0	0.5
Less Excluded Fee Items	−23.1	−43.8	89.6
Balance	894.0	878.2	−1.7
Fee Recovery Percent	90	90	0.0
Total Amount to be Recovered	804.6	790.4	−1.7
Adjustment USAID Rescission [3]	0.0	−0.1	−100.0
Total Amount to be Recovered Post USAID	804.6	790.3	−1.8
10 CFR Part 171 Billing Adjustments:			
Unpaid Current Year Invoices (estimated)	6.2	6.5	4.8
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−4.9	−7.5	53.1
Subtotal	1.3	−1.0	−176.9
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	805.9	789.3	−2.0
Less Estimated 10 CFR Part 170 Fees	−297.3	−280.8	−1.2
10 CFR Part 171 Fee Collections Required	508.6	508.5	0.0

FY 2018 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees for specific services provided by the NRC under 10 CFR part 170. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate will be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support (corporate support and the IG), and then subtracting certain offsetting receipts, and dividing this total by the mission-direct full-time equivalents (FTE) converted to hours. The NRC is adding the definitions for ''mission-direct program salaries and benefits,'' ''mission-indirect program support,'' and ''agency support (corporate support and the IG)'' to 10 CFR 170.3, ''Definitions.'' The mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours. The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation (for this equation, ''budgeted resources'' does not include mission-direct contract resources):

$$\frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \text{Professional Hourly Rate} \quad \frac{\$768.8\text{ million}}{1{,}851 \times 1{,}510} = \$275$$

For FY 2018, the NRC is increasing the professional hourly rate from $263 to $275. The 4.6 percent increase in the FY 2018 professional hourly rate is due primarily to the 7.3 percent decline in the number of mission-direct FTE compared to FY 2017, offset by a 2.4 percent decline in budgeted resources and a small increase in productive hours. The 7.3 percent decline in the number of mission-direct FTE was larger than the decline projected in the proposed rule due primarily to the exclusion of advanced reactor regulatory infrastructure activities and international activities from the fee-recoverable budget, which caused the mission-direct FTE assigned to these activities to be excluded from the professional hourly rate calculation. The FY 2018 estimated annual mission-direct FTE productive hours is 1,510 hours, up from 1,500 hours in FY 2017. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This excludes hours charged to annual leave, sick leave, holidays, training, and general administration tasks. Table II shows the professional hourly rate calculation methodology. The FY 2017 amounts are provided for comparison purposes.

[2] For each table, numbers may not add due to rounding.

[3] The adjustment to the NRC's fee recovery amount associated with the USAID rescission is shown in Table 1. Because the USAID rescission amount was approximately $0.1 million, the proportion of the USAID rescission applicable to each fee class is not shown in the accompanying tables for each fee class. Additional information on the amount of the USAID rescission applicable to each fee class is available in the work papers (ADAMS Accession No. ML18135A044).

TABLE II—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2017 final rule	FY 2018 final rule	Percentage change
Mission-Direct Program Salaries & Benefits	$340.6	$325.7	−4.4
Mission-Indirect Program Support	137.3	135.0	−1.7
Agency Support (Corporate Support and the IG)	309.6	308.1	−0.4
Subtotal	787.5	768.8	−2.4
Less Offsetting Receipts [4]	−0.1	0.0	100.0
Total Budgeted Resources Included in Professional Hourly Rate	$787.4	$768.8	−2.4
Mission-Direct FTE (Whole numbers)	1,996	1,851	−7.3
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,500	1,510	0.7
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours) (In Millions)	3.0	2.8	−6.7
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	263	275	4.6

FY 2018 Fee Collection—Flat Application Fee Changes

The NRC is amending the flat application fees that it charges to applicants for import and export licenses, applicants for materials licenses and other regulatory services, and holders of materials in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of $275 and the exclusion of international activities from the fee-recoverable budget. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2018. The NRC analyzes the actual hours spent performing licensing actions and then estimates the average professional staff hours that are needed to process licensing actions as part of its biennial review of fees, which is required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2017 and will perform this review again in FY 2019. The higher professional hourly rate of $275 is the primary reason for the increase in flat application fees. Please see the work papers for more detail (ADAMS Accession No. ML18135044).

The NRC rounds these flat fees in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The licensing flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Because the enacted budget excludes international activities from the fee-recoverable budget, import and export licensing actions, wholly funded through the international activities product line, (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31) will not be charged fees under the final rule. To implement this, the NRC has revised fee categories K.1. through K.5. of § 170.21 and fee categories 15.A.

through 15.R. of § 170.31 and included a new footnote in these tables.[5] Applications filed on or after the effective date of the FY 2018 final fee rule will be subject to the revised fees in this final rule.

FY 2018 Fee Collection—Fee-Relief and Low-Level Waste (LLW) Surcharge

As previously noted, OBRA–90 requires the NRC to recover approximately 90 percent of its annual budget authority for the fiscal year. The NRC applies the remaining 10 percent that is not recovered to offset certain budgeted activities—see Table III for a full listing of these ''fee-relief'' activities. If the amount budgeted for these fee-relief activities is greater or less than 10 percent of the NRC's annual budget authority (less the fee-recovery exclusions), then the NRC applies a fee adjustment (either an increase or decrease) to all licensees' annual fees, based on their percentage share of the NRC's budget.

In FY 2018, the amount budgeted for fee-relief activities is less than the 10-percent threshold—therefore, the NRC will assess a fee-relief credit that decreases all licensees' annual fees based on their percentage share of the budget. The credit is due primarily to the exclusion of international activities from the fee-recoverable budget. Table III summarizes the fee-relief activities budgeted for FY 2018. The FY 2017 amounts are provided for comparison purposes.

[4] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity (financial protection required of licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in Office of Management and Budget (OMB) Circular A–25, User Charges. The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The indemnity activities are allocated under the Licensing Actions and the Research & Test Reactors products within the Operating Reactors business line.

[5] The NRC has also removed the language relating to international activities in §§ 171.15(d)(1)(ii) and 171.16(e)(2) (which pertain to the fee-relief adjustment) because the enacted budget excludes international activities from the fee-recoverable budget and thus international activities are not included in fee relief under the FY 2018 final fee rule.

TABLE III—FEE-RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2017 budgeted costs	FY 2018 budgeted costs	Percentage change
1. Activities not attributable to an existing NRC licensee or class of licensees:			
a. International activities [6]	$13.8	$0.0	−100.0
b. Agreement State oversight	12.9	13.5	4.5
c. Scholarships and Fellowships	17.9	15.0	−16.2
d. Medical Isotope Production Infrastructure	4.2	3.9	−7.1
2. Activities not assessed under 10 CFR part 170 service fees or 10 CFR part 171 annual fees based on existing law or Commission policy:			
a. Fee exemption for nonprofit educational institutions	9.7	8.7	−9.9
b. Costs not recovered from small entities under § 171.16(c)	7.4	6.6	−10.8
c. Regulatory support to Agreement States	18.5	17.4	−5.9
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	14.6	14.5	−1.0
e. *In Situ* leach rulemaking and unregistered general licensees	1.4	1.5	7.1
f. Potential Department of Defense remediation program MOU activities	1.1	1.2	2.0
g. Non-military radium sites	N/A	1.7	N/A
Total fee-relief activities	101.5	83.9	−17.3
Less 10 percent of the NRC's total FY budget (less the fee recovery exclusions)	−89.4	−87.8	1.8
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	12.1	−3.9	−132.6

Table IV shows how the NRC allocates the $3.9 million fee-relief credit to each licensee fee class. Also, in accordance with the staff requirements memorandum (SRM) dated September 7, 2017 (ADAMS Accession No. ML17250A841), for SECY–17–0026, ''Policy Considerations and Recommendations for Remediation of Non-Military, Unlicensed Historic Radium Sites in Non-Agreement States'' dated February 22, 2017 (ADAMS Accession No. ML17130A783), the NRC has established a new fee-relief category for non-military sites contaminated due to historic uses of radium.

In addition to the fee-relief credit, the NRC also assesses a generic LLW surcharge of $3.4 million. Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC allocates this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE's) Manifest Information Management System (MIMS). This database contains information on total LLW volumes and NRC usage information from four generator classes: Academic, industrial, medical, and utility. The ratio of utility waste volumes to total LLW volumes over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and materials fee classes. The materials portion is adjusted to account for the fact that a large percentage of materials licensees are licensed by the Agreement States rather than the NRC.

The LLW surcharge amounts have changed since the proposed rule. After the NRC published the proposed rule for public comment, DOE updated the MIMS system with 2017 data. As a result of the update, the LLW surcharge for Operating Power Reactors fee class increased from $1.4 million to $2.6 million. For Fuel Facilities and Material Users, it decreased from $1.6 million to $0.7 million and from $0.4 million to $0.2 million, respectively. Additional details about these changes to the LLW surcharge resulting from DOE's update to the MIMS system can be found in Section IV(I).

Table IV shows the LLW surcharge and fee-relief credit, and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2018

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	75.0	2.6	85.1	−3.4	−0.8
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0	4.4	−0.2	−0.2
Research and Test Reactors	0.0	0.0	0.3	0.0	0.0
Fuel Facilities	20.0	0.7	4.6	−0.2	0.5
Materials Users	5.0	0.2	3.4	−0.1	0.0
Transportation	0.0	0.0	0.5	0.0	0.0
Rare Earth Facilities	0.0	0.0	0.0	0.0	0.0
Uranium Recovery	0.0	0.0	1.7	−0.1	−0.1

[6] In prior years, this fee-relief category included amount includes international assistance activities. This fee-relief category also included conventions and treaty activities that are not attributable to an existing NRC licensee or class of licensees, and it included international cooperation activities that are not attributable to an existing NRC licensee or class of licensees.

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2018—Continued

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Total	100.0	3.4	100.0	−3.9	−0.5

FY 2018 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005 (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. ''Rebaselining'' entails analyzing the budget in detail and then allocating the budgeted costs to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC revised its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2018 budget authority (less the fee-recovery exclusions and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this final rule are $280.8 million, a decrease of $16.6 million from the FY 2017 fee rule. The NRC, therefore, must recover $508.5 million through annual fees from its licensees; an amount identical to the annual fees collected by the FY 2017 final fee rule.

Table V shows the final rebaselined fees for FY 2018 for a representative list of license categories. The FY 2017 amounts are provided for comparison purposes.[7]

TABLE V—REBASELINED ANNUAL FEES

Class/category of license	FY 2017 final annual fee	FY 2018 final annual fee	Percentage change
Operating Power Reactors	$4,308,000	$4,333,000	0.6
+ Spent Fuel Storage/Reactor Decommissioning	188,000	198,000	5.3
Total, Combined Fee	4,496,000	4,531,000	0.8
Spent Fuel Storage/Reactor Decommissioning	188,000	198,000	5.3
Research and Test Reactors (Non-power Reactors)	81,400	81,300	−0.1
High Enriched Uranium Fuel Facility	7,255,000	7,346,000	1.3
Low Enriched Uranium Fuel Facility	2,629,000	2,661,000	1.2
UF_6 Conversion and Deconversion Facility	1,498,000	1,517,000	1.3
Conventional Mills	38,900	38,800	−0.3
Typical Materials Users:			
Radiographers (Category 3O)	27,000	25,000	−7.4
Well Loggers (Category 5A)	16,000	14,900	−6.9
All Other Specific Byproduct Material Licensees (Category 3P)	9,300	8,600	−7.5
Broad Scope Medical (Category 7B)	33,800	30,900	−8.6

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources for each class of license and calculates the fees.

Paragraphs a. through h. of this section describe budgeted resources allocated to each class of license and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers.

a. Fuel Facilities

The NRC will collect $27.7 million in annual fees from the fuel facilities class.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources	$33.9	$35.2	3.8
Less estimated 10 CFR part 170 receipts	−9.6	−9.2	−4.2
Net 10 CFR part 171 resources	24.3	26.0	7.0
Allocated generic transportation	1.6	1.3	−1.9
Fee-relief adjustment/LLW surcharge	2.5	0.5	−80.0
Billing adjustments	0.0	0.0	0.0
Total remaining required annual fee recovery[8]	28.4	27.7	−2.5

[7] For each fee class, the FY 2017 fees and percentage change are shown for comparison purposes.

[8] See Table VII for percentage change for each fee category.

In FY 2018, the fuel facilities budgeted resources increased slightly due to a 5.3 percent increase in the fully costed FTE rate and the transfer of 1 FTE of enforcement resources from the nuclear materials user fee class to the fuel facilities fee class to reflect the fee class benefiting from the work being performed by this FTE. The estimated 10 CFR part 170 billings declined by $0.4 million as a result of completing license renewals for GE Vallecitos and Westinghouse, as well as declining inspection workload for Honeywell. There was also a reduction to the LLW surcharge allotment because of decreased usage of LLW by this fee class as a percentage of licensees.

The NRC allocates annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are presented in Table VII). The annual fees are then distributed across the fee class based on the regulatory effort reflected in the matrix.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2018

Facility type (fee category)	Number of facilities	Effort factors	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	96
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	30
Limited Operations (1.A.(2)(a))	0	0	0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	21	23
UF_6 Conversion and Deconversion (2.A.(1))	1	12	7

In FY 2018, the total remaining required annual fee recovery amount of $27.7 million is comprised of safety activities, safeguards activities and the fee-relief adjustment/LLW surcharge. For FY 2018, the total budgeted resources to be recovered as annual fees for safety activities are $15.0 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percent of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $12.2 million, to each fee category based on its percent of the total regulatory effort for safeguards activities. Finally, the portion of the fee-relief adjustment/LLW surcharge associated with the fuel facility fee class—$0.5 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. In comparison to FY 2017, there was a decrease of 2.5 percent for the total remaining required annual fee recovery in FY 2018 (see Table VI). However, there was an increase of approximately 1.3 percent in each fee category in FY 2018. The differences in the changes to the total required annual fee recovery and the annual fees for each fee category is due to two licensees leaving the fee class in FY 2017. The fee for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2017 final annual fee	FY 2018 final annual fee	Percentage change
High-Enriched Uranium Fuel (1.A.(1)(a))	$7,255,000	$7,346,000	1.3
Low-Enriched Uranium Fuel (1.A.(1)(b))	2,629,000	2,661,000	1.2
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1,366,000	[9] N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	710,000	[10] N/A	N/A
Uranium Enrichment (1.E.)	3,470,000	3,513,000	1.2
UF_6 Conversion and Deconversion (2.A.(1))	1,498,000	1,517,000	1.3

b. Uranium Recovery Facilities

The NRC will collect $0.5 million in annual fees from the uranium recovery facilities fee class, a decrease of 50.0 percent from FY 2017.

[9] No licensees in this fee category in FY 2018.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources	$14.3	$13.5	−5.6
Less estimated 10 CFR part 170 receipts	−13.5	−12.9	−4.4
Net 10 CFR part 171 resources	0.8	0.6	−25.0
Allocated generic transportation	N/A	N/A	N/A
Fee-relief adjustment	0.2	−0.1	−150.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	1.0	0.5	−50.0

In comparison to FY 2017, the FY 2018 budgeted resources for uranium recovery licensees decreased due to reductions in associated licensing work, realignment of the Uranium Mill Tailings Radiation Control Act (UMTRCA) program, and completed reviews for license amendments for Strata Energy and Jane Dough, offset by increased workload for the Marsland license amendment review.

The NRC computes the annual fee for the uranium recovery fee class by dividing the total annual fee recovery amount among DOE and the other licensees in this fee class. The annual fee decreased for the DOE/UMTRCA program due to the decreased budgeted resources and an increase in 10 CFR part 170 billings for the Atlantic Richfield Bluewater disposal site review. The annual fee decreased slightly for the remaining uranium recovery licensees due to the fee relief credit. This was offset by a decrease in estimated 10 CFR part 170 billings for completed reviews for license amendments for Strata Energy and Jane Dough. There was an increase in 10 CFR part 170 billings for the Marsland license amendment review, which also contributed to the slight decrease in annual fees.

The NRC regulates DOE's Title I and Title II activities under UMTRCA [10] and the annual fee to DOE includes the costs specifically budgeted for the NRC's UMTRCA Title I and Title II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The annual fee decreased for the overall fee class due to the decrease in budgeted resources. The NRC assesses the remaining 90 percent of its budgeted costs to the rest of the licensees in this fee class, as described in the work papers. This is reflected in Table X as follows:

TABLE X—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

Summary of costs	FY 2017 final annual fee	FY 2018 final annual fee	Percentage change
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:			
UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	$574,595	$80,921	−85.9
10 percent of generic/other uranium recovery budgeted costs	19,079	47,723	150.1
10 percent of uranium recovery fee-relief adjustment	21,940	−6,724	−130.6
Total Annual Fee Amount for DOE (rounded)	616,000	122,000	−80.2
Annual Fee Amount for Other Uranium Recovery Licenses:			
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for UMTRCA Title I and Title II activities	171,714	429,509	150.1
90 percent of uranium recovery fee-relief adjustment	197,464	−60,517	−130.6
Total Annual Fee Amount for Other Uranium Recovery Licenses	369,178	368,992	−0.1

Further, for the non-DOE licensees, the NRC continues to use a matrix to determine the effort levels associated with conducting the generic regulatory actions for the different licensees in this fee class; this is similar to the NRC's approach for fuel facilities, described previously.

The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities; mill tailings disposal facilities; and uranium water treatment facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (for more information, see the work papers). Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

[10] The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XI—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	1	150	150	10.5
Basic *In Situ* Recovery facilities (2.A.(2)(b))	5	190	950	66.7
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	1	215	215	15.1
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	6.0
Uranium water treatment (2.A.(5))	1	25	25	1.7
Total	9	665	1,425	100.0

Applying these factors to the approximately $368,992 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category, as summarized in Table XII.

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]

Facility type (fee category)	FY 2017 final annual fee	FY 2018 final annual fee	Percentage change
Conventional and Heap Leach mills (2.A.(2)(a))	$38,900	$38,800	−0.3
Basic *In Situ* Recovery facilities (2.A.(2)(b))	49,200	49,200	0.0
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	55,700	55,700	0.0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	22,000	22,000	0.0
Uranium water treatment (2.A.(5))	6,500	6,500	0.0

c. Operating Power Reactors

The NRC will collect $428.9 million in annual fees from the power reactor fee class in FY 2018, as shown in Table XIII. The FY 2017 fees and percentage change are shown for comparison purposes.

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources	$670.3	$669.9	0.0
Less estimated 10 CFR part 170 receipts	−256.3	−239.6	−6.5
Net 10 CFR part 171 resources	414.0	430.4	4.0
Allocated generic transportation	0.3	0.3	0.0
Fee-relief adjustment/LLW surcharge	11.1	−0.8	−107.2
Billing adjustment	1.1	−0.9	−181.8
Total required annual fee recovery	426.5	428.9	0.6
Total operating reactors	99	99	0.0
Annual fee per reactor	4.308	4.333	0.6

In comparison to FY 2017, the operating power reactors budgeted resources decreased slightly by $0.4 million due to a decline in FTEs needed for Fukushima-related work and combined license reviews. This decline in FTEs, however, was offset by increases in contract costs associated with research in the areas of safety and security of digital systems, materials degradation, the aging of cables, and the effects of concrete degradation.[11] In FY 2018, contract costs also increased to support the new reactor design certification and early site permit reviews, as well as related infrastructure and technical assistance.

Estimated billings under 10 CFR part 170 also slightly declined primarily due to South Carolina Electric and Gas Company's decision to abandon the construction of the two new nuclear units at V.C. Summer Nuclear Station.

The budgeted resources are divided equally among the 99 operating power reactors, resulting in an annual fee of $4,333,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2018 spent fuel storage/reactor decommissioning annual fee of $198,000 (see Table XIV and the discussion that follows). The combined FY 2018 annual fee for operating power reactors is, therefore, $4,531,000.

[11] These contract costs were funded with prior year unobligated carryover in FY 2017, and thus, were not included in the FY 2017 final fee rule.

On May 24, 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMRs). Under the variable annual fee structure, effective June 23, 2016, an SMR's annual fee would be calculated as a function of its licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2018 for this type of licensee.

d. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect $24.2 million in annual fees from 10 CFR part 50 power reactors, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to collect the budgeted costs for spent fuel storage/reactor decommissioning.

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources	$29.5	$33.8	14.6
Less estimated 10 CFR part 170 receipts	−7.9	−10.2	29.1
Net 10 CFR part 171 resources	21.6	23.7	9.7
Allocated generic transportation costs	0.8	0.7	12.5
Fee-relief adjustment	0.5	−0.2	−140.0
Billing adjustments	0.1	0.0	−100.0
Total required annual fee recovery	23.0	24.2	5.2
Total spent fuel storage facilities	122	122	0.0
Annual fee per facility	0.188	0.198	5.3

Compared to FY 2017, the FY 2018 budgeted resources for spent fuel storage/reactor decommissioning increased due to: (1) An increase in resources to support the safety, security, emergency preparedness, and environmental reviews for two applications for consolidated interim storage facilities; and (2) efforts to consolidate the standard review plan for all facilities in the fee class. For this fee class, estimated billings under 10 CFR part 170 increased slightly due to an anticipated increase in workload for the Holtec International consolidated interim storage facility application, a renewal request for DOE Idaho, and an amendment request by TN Americas. This increase in 10 CFR part 170 estimated billings was partly offset due to suspension of the review for the Waste Control Specialists consolidated interim storage facility application.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2018 annual fee of $198,000 per licensee.

e. Research and Test Reactors (Non-Power Reactors)

The NRC will collect $0.325 million in annual fees from the research and test reactor licensee class.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources	$1.982	$2.009	1.4
Less estimated 10 CFR part 170 receipts	−1.724	−1.698	−1.5
Net 10 CFR part 171 resources	0.258	0.311	20.5
Allocated generic transportation	0.034	0.027	-20.6
Fee-relief adjustment	0.031	−0.010	−67.7
Billing adjustments	0.003	−0.003	−200.0
Total required annual fee recovery	0.326	0.325	−0.3
Total research and test reactors	4	4	0.0
Total annual fee per reactor	0.0814	0.0813	−0.1

For this fee class, the budgeted resources increased due to an increase in the fully costed FTE rate. Despite the increase in budgeted resources, the final FY 2018 annual fee decreased due to an increase in the fee-relief credit and a reduction in generic transportation costs from FY 2017. These were offset by a decline in estimated 10 CFR part 170 billings due to the lower than projected workload associated with the delayed construction and license application submission schedules of two medical isotope production facilities. This decline was offset by increases in

estimated 10 CFR part 170 billings for Aerotest's license renewal and continued project management activities for the four research and test reactor sites.

The required annual fee-recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2018 annual fee of $81,300 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not issuing an annual fee in FY 2018.

g. Materials Users

The NRC will collect $32.4 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total budgeted resources for licensees not regulated by Agreement States	$33.7	$32.1	−4.7
Less estimated 10 CFR part 170 receipts	−0.9	−0.9	0.0
Net 10 CFR part 171 resources	32.8	31.1	−5.2
Allocated generic transportation	1.6	1.3	−18.8
Fee-relief adjustment/LLW surcharge	0.9	0.0	−100.0
Billing adjustments	0.1	0.0	−100.0
Total required annual fee recovery	35.4	32.4	−8.5

The annual fee for these categories of materials users' licenses is developed as follows: Annual Fee = Constant x [Application Fee + (Average Inspection Cost/Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost/Inspection Priority) + Unique Category Costs. The total annual fee recovery for FY 2018 consists of the following: $24.9 million for general costs, $7.2 million for inspection costs, $0.3 million for unique costs for medical licenses, and $0.04 million for the fee relief adjustment/LLW surcharge. To equitably and fairly allocate the $32.4 million required to be collected among approximately 2,600 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee-calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The NRC is decreasing the annual fees for most materials licensees in this fee class in FY 2018 due to a reduction in budgeted resources for oversight activities through implementation of process enhancements and rebaselining of the materials program under Project Aim.

The constant multiplier is established in order to recover the total general costs (including allocated generic transportation costs) of $24.9 million. To derive the constant multiplier, the general cost amount is divided by the product of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.36 for FY 2018. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $275. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $7.2 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the product of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.39 for FY 2018. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2018, unique category costs include approximately $0.3 million in budgeted costs for the implementation of revised 10 CFR part 35, ''Medical Use of Byproduct Material,'' which has been allocated to holders of NRC human-use licenses.

The annual fee assessed to each licensee also includes a share of the $0.1 million fee-relief credit assessment allocated to the materials users fee class (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2018,'' in Section III, ''Discussion,'' of this document), and for certain categories of these licensees, a share of the approximately $0.2 million LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC will collect $1.1 million in annual fees to recover generic transportation budgeted resources. The FY 2017 values are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Total Budgeted Resources	$8.9	$7.9	−11.2
Less Estimated 10 CFR part 170 Receipts	−3.1	−3.1	0.0

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION—Continued

[Dollars in millions]

Summary fee calculations	FY 2017 final	FY 2018 final	Percentage change
Net 10 CFR part 171 Resources	5.8	4.7	−19.0
Less Generic Transportation Resources [12]	−4.5	−3.6	−20.0
Fee-relief adjustment/LLW surcharge	0.0	0.0	0.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	1.5	1.1	−28.5

In comparison to FY 2017, the total budgeted resources for FY 2018 for generic transportation activities decreased due to a decline in the expected number of major licensing actions to be completed in FY 2018 and a reduction in the Certificates of Compliance (CoCs) for DOE (from 22 to 21). There was also a decline in budgeted resources within licensing and rulemaking support due to a transfer of certain budgeted resources to the spent fuel storage/reactor decommissioning fee class.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A. for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered. The final annual fee decrease for DOE is mainly due to a decrease in CoCs from 22 to 21 in FY 2018.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the research and test reactors fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although four CoCs benefit the entire research and test reactor class, only 4 out of 31 research and test reactors are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactors annual fees has been adjusted to 0.5 so the research and test reactors subject to annual fees are charged a fair and equitable portion of the total. For more information, see the work papers.

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2018

[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	25.0	27.9	$1.3
Operating Power Reactors	5.0	5.6	0.3
Spent Fuel Storage/Reactor Decommissioning	14.0	15.6	0.7
Research and Test Reactors	0.5	0.6	0.0
Fuel Facilities	24.0	26.8	1.3
Sub-Total of Generic Transportation Resources	68.5	76.5	3.6
DOE	21.0	23.5	1.1
Total	89.5	100.0	4.7

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2018—Policy Change

The NRC makes one policy change for FY 2018:

Changes to Small Materials Users Fee Categories for Locations of Use

The NRC adds new fee subcategories to seven existing fee categories under 10 CFR 170.31, ''Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,'' and 10 CFR 171.16, ''Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC.'' Generally speaking, 10 CFR 170.31 assigns the same fee to each licensee in the fee category, regardless of the number of locations where the licensee is authorized to work. Yet for some of these fee categories, the NRC staff recently determined that it spends a disproportionate amount of time on licensees with six or more locations compared to licensees in the same fee category with fewer than six locations. Therefore, the NRC is revising its fee categories so that these fees better align with the actual costs of providing regulatory services.

Previously—in the FY 2015 final fee rule—the NRC added three fee subcategories under one fee category, 3.L. (research and development broad scope) for licenses with six or more locations of use. Although there are 14 additional fee categories that could be modified, the NRC determined that most

[12] New line item added to enhance clarity.

affected licenses are covered under 7 of the 14 fee categories. Accordingly, the NRC is adding subcategories to these seven fee categories:

- Manufacturing broad scope licenses under fee category 3.A.
- Other manufacturing licenses under fee category 3.B.
- Medical product distribution licenses under fee category 3.C.
- Industrial radiography licenses under fee category 3.O.
- Other byproduct licenses (*e.g.,* portable and fixed gauges, measuring systems) under fee category 3.P.
- Medical licenses under fee categories 7.A. and 7.B.

To more accurately reflect the cost of services provided by the NRC, this change results in each fee category having subcategories for 1–5, 6–20, and more than 20 locations of use. The NRC is also amending footnotes 9, 18, and 19, as numbered in the final rule, in § 171.16 and footnotes 7, 9, and 10 in § 170.31 to reflect the new fee subcategories.

FY 2018—Administrative Changes

The NRC is making ten [13] of the eleven proposed administrative changes in this final rule:

1. *Revise the methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (RIs).*

The NRC is revising the methodology for charging licensees for overhead time for PMs and RIs. The prior approach was that the NRC included an overhead cost of 6 percent of direct billable costs to all licensees' invoices. The overhead charge was intended to recover the full cost for PM and RI activities that provide a direct benefit to the assigned licensee or site.

In FY 2015 to FY 2017, this 6-percent value was based on the analysis of 4 years of billing data (FY 2011 to FY 2014) for overhead activities recorded in the time and labor system by a PM or RI and billed to the dockets to which the PM or the RI were officially assigned. The NRC has reviewed the process and, as a process enhancement, created docket-related fee-billable cost activity codes to replace the prior 6-percent approach. Consistent with 10 CFR 170.12(c)(1), which requires the NRC to assess fees to recover full cost for each RI (including the senior RI) assigned to a specific plant or facility (*i.e.,* ''all time in a non-leave status,'' excluding time spent in support of activities at another site), RIs (including senior RIs) will begin recording time to these new docket-related fee-billable cost activity codes at the end of FY 2018. These new docket-related fee-billable cost activity codes will not be used by PMs. Agency efforts have significantly reduced the use of non-fee-billable overhead associated with PMs through improvements in the timekeeping system, additional staff training, and more robust control of hours recorded to the cost activity codes by the PMs. The agency continues to monitor the proper use of the limited range of indirect activities.

The first invoice without the 6-percent overhead charge will be issued in January 2019. Instead, the licensee invoices will include the actual hours for RI activities that support and directly benefit the assigned licensee or site. The licensees should expect to see a cost activity code on their invoices which references these RI indirect hours.

2. *Add definitions for inputs in the professional hourly rate calculation in 10 CFR part 170, ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, as Amended.''*

In response to the recommendations in the U.S. Government Accountability Office (GAO) report titled ''Nuclear Regulatory Commission: Regulatory Fee-Setting Calculations Need Greater Transparency'' (GAO–17–232), dated February 2, 2017, the NRC committed to add definitions for the professional hourly rate components in 10 CFR part 170 during the FY 2018 fee rulemaking. The NRC, therefore, adds the definitions for ''agency support (corporate support and the IG),'' ''mission-direct program salaries and benefits,'' and ''mission-indirect program support'' to 10 CFR 170.3, ''Definitions.''

3. *Delete the definition of ''overhead and general and administrative costs'' from 10 CFR 170.3 and 10 CFR 171.5.*

The term ''overhead and general and administrative costs'' is currently defined in 10 CFR 170.3 and 10 CFR 171.5, but it is not used in 10 CFR parts 170 and 171. Nor do the subordinate elements of the definition—''Government benefits,'' ''travel costs,'' ''overhead,'' ''administrative support costs,'' and ''indirect costs''—appear elsewhere in 10 CFR parts 170 and 171. The NRC, therefore, deletes these definitions to enhance clarity.

4. *Amend language under 10 CFR 170.11, ''Exemptions,'' to add a new paragraph to include the timeframe in which a request for a fee exemption must be submitted to the Chief Financial Officer (CFO) under 10 CFR part 170.*

The NRC is amending its exemption requirements to specify that a request for a fee exemption under 10 CFR 170.11(a)(1) must be submitted to the CFO within 90 days of the date of the NRC's receipt of the work.

5. *Amend language under 10 CFR 170.31, ''Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,'' and 10 CFR 171.16, ''Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC,'' to enhance clarity.*

When a materials license (or part of a materials license) changes from operational to decommissioning status, it transitions to fee category 14.A. There are two aspects of the fee treatment that follows transition to fee category 14.A. First, the materials license (or part of a materials license) that transitions to fee category 14.A is assessed full cost fees under 10 CFR part 170, even if, before the transition to this fee category, the licensee was assessed flat fees under 10 CFR part 170. Second, the materials license (or part of a materials license) that transitions to fee category 14.A is not assessed annual fees under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status. This final rule adds a new footnote to the table in 10 CFR 170.31 and to the table in 10 CFR 171.16 to emphasize the fee treatment that follows a transition to fee category 14.A.

The NRC also adds new language to the description of fee category 14.A. in both 10 CFR 170.31 and 171.16 in order to enhance clarity regarding when a materials license (or part of a materials license) transitions to fee category 14.A. Specifically, this transition occurs when a licensee has permanently ceased principal activities. For guidance on what constitutes ''permanently ceasing principal activities,'' please see Regulatory Issue Summary 2015–19, ''Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief'' (September 27, 2016, ADAMS Accession No. ML16008A242).

6. *Amend language under 10 CFR 171.3 and 10 CFR 171.16(a) to clarify when the assessment of annual fees begins for uranium recovery and fuel facility licensees.*

Both uranium recovery and fuel facilities licenses include a condition

[13] The change identified as item No.10 is not being made as part of the final rule.

that the NRC must complete a post-construction, pre-operational inspection to authorize a licensee to possess and use source material. In the FY 2007 final fee rule, the NRC added language to 10 CFR 171.3 and 10 CFR 171.16(a) to codify its policy that annual fees for uranium enrichment facilities will be assessed after the NRC verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The NRC is amending those sections to codify the policy that the assessment of annual fees for uranium recovery or fuel facility licensees, including uranium enrichment facility licensees, begins after the NRC inspection verifies that the facility has been constructed in accordance with the requirements of the license.

7. *Amend footnote 9 to the table in 10 CFR 171.16(d) for clarity.*

The NRC revises footnote 9 to clarify that nuclear medicine licensees under fee category 7.A. are not assessed a separate annual fee for pacemaker licenses.

8. *Delete footnote 15 to the table in 10 CFR 171.16(d).*

The NRC deletes footnote 15 because footnote 16 is more comprehensive and already includes the relevant information from footnote 15. The current footnote 16 is renumbered as footnote 15, and the footnotes that follow current footnote 16 are renumbered. All references to these footnotes in fee categories are adjusted accordingly.

9. *Amend footnote 16 to the table in 10 CFR 171.16(d) for clarity.*

The NRC renumbers footnote 16 as footnote 15, as indicated, and revises it to clarify that licensees paying fees under fee category 17 are not subject to additional fees listed in the table.

10. *Proposal to add a new footnote to the table in 10 CFR 171.16(d) for clarity.*

In the proposed fee rule, the NRC proposed to add a new footnote (footnote 20 in the proposed fee rule) to clarify when licensees are exempt from paying annual fees under a specific fee category when they are licensed under multiple fee categories. Specifically, the NRC proposed to add references to the new footnote 20 for fee categories 2.B., 3.N., and 3.P. The NRC, however, determined that the proposed footnote 20 was redundant to footnotes 17 and 18 for fee category 2B; to footnote 19 for fee category 3.P., as well as new fee categories 3.P(1) and 3.P(2). The language in the proposed footnote 20 was also determined to be redundant to the description for fee category 3.N. Therefore, the NRC does not add this footnote to the table in § 171.16(d).

11. *Amend language under 10 CFR 171.17, ''Proration,'' to add a new sentence on the proration of fees.*

This final rule revises language regarding (1) reactors; (2) licensees under 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' who do not hold 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' licenses; and (3) materials licensees with annual fees of $100,000 or greater for a single fee category. The NRC is basing the proration of annual fees for terminated and downgraded licensees on the fee rule in effect at the time the termination or downgrade action is official. The NRC bases the determinations on the proration requirements under 10 CFR 171.17(a)(2) and (3).

Prior to this final rule, proration was based on the fee rule for the current fiscal year. This prevents the NRC from accurately billing the licensee at the time the termination or downgrade action is official based on the proration requirements under 10 CFR 171.17(a)(2) and (3). The NRC had wait until the current year's fee rule was effective (typically during the fourth quarter of a fiscal year) to either bill additional amounts or process refunds to the licensee based on the new fee rule amount.

This amendment allows the NRC to prorate annual fees based on the fee rule in effect at the time the termination or downgrade action is official based on the proration requirements under 10 CFR 171.17(a)(2) and (3), thereby providing improved transparency for fee adjustments in the fourth quarter of the fiscal year. This change supports the fair and equitable assessment of fees because it ties annual fee proration to when the license actually becomes downgraded or terminated.

Update to the Fees Transformation Initiative

The SRM, dated October 19, 2016 (ADAMS Accession No. ML16293A902), for SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule'' (ADAMS Accession No. ML16194A365) directed staff to explore, as a voluntary pilot, whether a flat fee structure could be established for routine licensing matters in the area uranium recovery, and to accelerate the fees setting process improvements including the transition to an electronic billing system. With respect to the voluntary flat fees pilot, the staff has developed a project plan and is on target to complete this activity by September 2020. With respect to the fees setting process improvements, all 14 of the activities scheduled for FY 2017 and an additional 3 scheduled for FY 2018 were completed in FY 2017. These improvements included adding additional content to the FY 2018 Congressional Budget Justification (CBJ) to help licensees understand how the planned workload in the budget impacted fees, validating the budgeting process by comparing budgeted amounts with actual amounts in the CBJ, posting the estimated cost of various licensing actions for both the Reactors and Materials programs on the NRC's public website, and modifying the calculation of full-cost fees to facilitate publishing the proposed and final fee rules earlier.

Two remaining fee setting improvements are scheduled to be completed for FY 2018. First, the change to the methodology for recovering RI/PM overhead costs is discussed in this document. Second, the NRC is adding an additional tab to the final fee rule work papers to improve transparency with the part 170 estimates impact on part 171 annual fees by disclosing the ratios of the estimated part 170 to part 171 collections for each fee class with the actual ratio of collections for FY 2017.

For the remaining process changes recommended for future consideration, the NRC is well-positioned to complete them on schedule. For more information, please see the fees transformation accomplishments schedule, located on the license fees website at: *https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html*.

III. Public Comment Analysis

Overview of Public Comments

The NRC received 13 written comment submissions on the proposed rule. A comment submission for the purpose of this rule is defined as a written communication or document submitted to the NRC by an individual or entity, with one or more distinct comments addressing a subject or an issue. A comment, on the other hand, refers to a statement made in the submission addressing a subject or issue. In general, the commenters were supportive of the specific proposed regulatory changes, although most commenters expressed concerns about broader fee-policy issues related to transparency, fairness, and overall size of the budget.

The commenters are listed in Table XIX.

TABLE XIX—FY 2018 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS Accession No.	Acronym
John Snider	Anderson Engineering	ML18038B689	AE
Aaron Ahern	Unknown	ML18046A092	AA
W. B. Smith	Unknown	ML18052B512	WBS
Stephen Cowne	URENCO USA	ML18053A945	UUSA
David Shafer	U.S. Department of Energy, Office of Legacy Management	ML18053A946	DOE
J. Bradley Fewell	Exelon Generation Co. LLC	ML18054B354	EXN
Duane Bollig	Water Remediation Technology LLC	ML18057B073	WRT
Joyce Goldfield	Unknown	ML18057B550	JG
Douglas Weaver	Westinghouse Electric Co	ML18057B551	WEC
Joseph Pollock	Nuclear Energy Institute (NEI)	ML18058A206	NEI–1
Pamela Cowan	NEI	ML18058A247	NEI–2
Tyson R. Smith	Honeywell International Inc	ML18058A305	HW
Richard J. Freudenberger	Nuclear Fuel Services Inc	ML18068A693	NFS

Information about obtaining the complete text of the comment submissions is available in Section XIV, ''Availability of Documents,'' of this document.

IV. Public Comments and NRC Responses

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized by topic. Comments from multiple commenters raising similar specific concerns were combined to capture the common essential issues raised by the commenters. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used show changes that have been made to the quoted comments. The NRC responses are preceded by a short summary of the issues raised by the commenters.

A. Transparency and Public Participation

Comment: To ensure a meaningful opportunity to comment on proposed fees, the commenters request that the NRC re-issue the proposed rule to reflect any final FY 2018 appropriations. If timing constrains the NRC's ability to re-issue the proposed rule, the commenter requests that the NRC make publicly available as soon as possible a document reflecting how any FY 2018 appropriation will alter FY 2018 fees. Doing so will allow licensees to plan their internal budgets with more fidelity than continuing to rely on a proposed fee rule that is no longer valid. (EXN, NEI–1, NEI–2, NFS)

Response: Several commenters expressed a general desire for the NRC to re-publish the proposed rule for comment based on the final enacted appropriations; alternatively, the commenters wanted the newly determined fees based on the final appropriations to be made publicly available in advance of the final rule. The NRC disagrees with these comments. The NRC strives to ensure that the proposed fee rule is as accurate as possible and explains its assumptions about the budgetary resources in order to provide the best information available regarding the fiscal year's proposed fees.

However, the NRC must comply with statutory requirements, including OBRA–90 and the Administrative Procedure Act (APA). The OBRA–90 requires the NRC to collect approximately 90 percent of its budget authority through fees assessed by the end of the fiscal year. Because the Office of Management and Budget has found the fee rule to be a major rule under the Congressional Review Act, the effective date of the final rule cannot be less than 60 days from the date of publication but must allow timely final billing prior to the end of the fiscal year. Because section 553 of the APA requires the NRC to give the public an opportunity to comment on a republished proposed rule, the NRC cannot republish the FY 2018 proposed fee rule, and meet its statutory requirement. No changes were made to the final rule as a result of these comments.

B. Budget Formulation

Comment: In today's economic environment, NRC licensees are collectively taking actions to reduce the operating costs to secure continued operations. As reactors shut down, licensees idle facilities, and others delay operations, the NRC should take commensurate actions to reduce its budget, pursue meaningful efficiencies in operations, develop appropriate metrics, and improve the transparency and process for developing its budgets. (EXN, NEI–1, NEI–2, NFS, WEC)

Response: Several commenters expressed concern regarding the NRC's budget related to the loss of licensees from particular fee classes, the challenge to fees that result from potentially larger budgets, the proper use of metrics and methods to determine the appropriate budget size and justifications, and a request for a public comment period on the proposed budget.

The fees assessed to licensees and applicants by the NRC must conform to OBRA–90, which requires the NRC to collect approximately 90 percent of its annual budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and equitably allocate annual fees among the NRC's many licensees. To ensure compliance with OBRA–90, the NRC makes continual organizational improvements to align the resources needed to support its regulatory activities. These actions help mitigate impacts on the remaining licensees from licensees that leave a fee class by helping the NRC continue to develop budgets that account for regulating a fee class with a declining number of licensees.

The NRC continues to examine and pursue improvements to its process and increases in efficiency that will allow it to meet its statutory responsibilities as the industry changes. The NRC continues to develop methods that would allow for more rapid adaption to future needs, changes to the technology, and the size of the licensed community.

With regard to the request for a public comment period on the proposed budget, the Office of Management and Budget (OMB) establishes the Executive Branch budget process through circulars, memoranda, and guidance documents. The OMB Circular No. A–11 (Circular A–11) is updated annually and contains extensive instructions and schedules for agency submission of budget requests and justification materials to OMB.

No changes were made to the final rule as a result of these comments.

C. Work Papers

Comment: Both the proposed rule and the work papers state that the operating power reactor annual fee increases in part due to increased support for new reactor design certification and early site permit reviews. However, neither document provides any more explanation as to the reason this work is increasing. Instead, one must consult the FY2018 Congressional Budget Justification to understand the purpose of this work (and even then, it remains at a fairly high level). Exelon recommends that at least the same level of explanation in the Congressional Budget Justification also be included in the proposed fee rule.

The proposed rule and work papers list contract and Full Time Equivalent resources for general areas of research (*e.g.,* ''engineering research'' and ''risk analysis''), but provides no explanation of the exact research activities being conducted. Breaking down these general research areas into more specific topics (with associated costs) would give licensees a more fulsome understanding of the NRC activities that our fees are funding. Moreover, the NRC should make clear how these research activities advance the agency's goals and objectives as set forth in its Strategic Plan.

Similarly, the proposed rule states that certain mission-direct non-labor contract costs increased in FY[ ]2018 because those activities were funded in FY[ ]2017 with prior year unobligated carryover. However, the proposed rule and work papers do not describe whether the total contract costs for FY 2018 are increasing compared to FY 2017 (irrespective of the funding source). Since the work papers reflect these contract costs as having zero resources allocated in FY 2017 (due to being funded by carryover), it is impossible to tell if more (or less) work is being done in these areas relative to last year. Exelon requests that, to the extent possible, in future final fee rules or work papers, the NRC identify which activities will be funded with carryover, and the amount of carryover allocated to each of those activities. This will enable licensees to compare total costs associated with NRC activities from year to year, regardless of how they were funded. (EXN)

Response: The commenter is requesting additional detail in the work papers in order to better understand the change in work being performed, improved clarity regarding the use of carryover funding, and additional information regarding research efforts. Different information is provided in different publications, including the work papers and the CBJ because these documents serve different purposes. The fee rule and the supporting work papers, for instance, are published in order for the public and licensees to understand how fees are determined for a fee class and a fee category. Because consistent with the requirements of OBRA–90, fees are calculated based on the budget authority enacted for the current FY and not carryover, the fee rule and supporting work papers do not include information pertaining to carryover and including such information in these documents could cause confusion. The CBJ, alternatively, provides the agency explanation and justification for the resources being requested for the next FY to allow the agency to complete its mission, and it provides the reasoning for changes in the agency resource requests.

Further, with respect to providing additional information regarding exact research activities, there are some limitations regarding the level of detail that can be shared on specific contracts. The NRC is preparing additional guidance for project managers on types of information that can be shared with contracts specifically assigned to licensee efforts. The CBJ provides an overview of the research activities being conducted during FY 2018. These activities include accident tolerant fuel confirmatory research, digital systems, materials degradation, cable aging, and concrete degradation. Additional information on research efforts is also available from the NRC's website at *https://www.nrc.gov/about-nrc/regulatory/research.html*. Including this information in the work papers for the proposed fee rule in future years is more likely to cause confusion regarding the scope of the fee rule. Additional information regarding the costs associated with research can be derived by comparing the work papers from the proposed fee rule to the final fee rule, which would allow the impact associated with the use of carryover to be identified between FYs. Work papers for the proposed and final fee rules for the last several years can be readily accessed at *https://www.nrc.gov/about-nrc/regulatory/licensing/fees.html*.

No changes were made to the final rule as a result of this comment.

Comment: The U.S. Department of Energy (DOE) has reviewed the proposed 10 CFR 170 and 171 fee schedule for fiscal year 2018. DOE finds that the basis for the total annual fee amount and the level of effort to support the general licenses for Uranium Mill Tailings Radiation Control Act [(UMTRCA)] sites is not presented in the proposed rule or the associated work papers. Additionally, the bases for allocation percentages for DOE and other uranium recovery licensees and the generic/other uranium recovery costs in the proposed rule and work papers are not presented. DOE requests that the U.S. Nuclear Regulatory Commission (NRC) clarify the rationale for the various fee components that are used to determine the total charge. This will help DOE evaluate whether the proposed NRC scope is consistent with anticipated DOE activities and establish the basis for DOE's estimate of annual uranium licensee fees in its budget request to Congress. (DOE)

Response: The NRC described the overall methodology for determining fees for uranium recovery facilities, including DOE, in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. As the NRC explained in the proposed fee rule, the NRC recovers fees from DOE through both user fees charged under 10 CFR part 170 for specific UMTRCA oversight activities and annual fees charged under 10 CFR part 171 for generic and other costs related to UMTRCA and other uranium recovery activities. As shown in the work papers referenced in the proposed fee rule, the NRC calculated the total amount of budgeted resources for UMTRCA activities related to DOE sites in the FY 2018 CBJ by computing the cost of staff hours budgeted to conduct the work (in terms of full-time equivalent, or FTE) and the budgeted contract costs. The total amount of budgeted resources was reduced by the amount expected to be recovered by part 170 user fees for site-specific UMTRCA activities. The NRC estimated the amount of part 170 user fees by analyzing billing data and the actual contractual work charged to DOE for the previous four quarters. The estimate, therefore, reflects any recent reductions in NRC oversight activities. The remainder of the UMTRCA budgeted amount related to DOE sites is charged to DOE for generic activities. In addition to those generic costs, DOE is charged for 10 percent of the overall generic costs attributable to the uranium recovery program. In other words, the DOE fee includes the costs of generic activities related to DOE sites and 10 percent of the overall generic costs attributable to the uranium recovery program. The remaining 90 percent of the overall generic costs is charged to other members of the uranium recovery class.

The proposed fee rule described the methodology used by the NRC staff to determine the annual fees for uranium recovery facilities. In addition, Tables IX through XII of the proposed rule show the application of the NRC's rebaselining methodology. The supporting work papers for the fee calculations provided detail on the FTE and contract resources for each product activity that were allocated to uranium recovery fee class. The work papers also provided information on all the values of the effort/benefit factors used in the uranium recovery matrix for FY 2018.

No changes were made to the final rule as a result of this comment.

D. Small Business Standards

Comment: [Because the NRC has a different definition for small business in comparison to the Small Business Administration (SBA), i]t makes it difficult to keep track of [the] same definition creating additional recordkeeping which is not necessary and does not add to creation of business. The definition defined by the SBA better reflects the intent of a ''small business.'' The NRC [should] update its definition of small business for license purposes to [be the] same as SBA. (AE)

Response: One commenter expressed concern regarding the NRC's small business definition. Under the SBA's regulations, other federal agencies may, at their discretion, establish their own standards through notice and comment rulemaking. The NRC updated its small business standards through notice and comment rulemaking, and those standards are separately codified at § 2.810. Comments with respect to the NRC's size standards, therefore, are outside the scope of this rulemaking. No changes were made to the final rule as a result of this comment.

Comment: To ensure consistency between Part 171 and Part 170 annual fees, NRC/[Office of the Chief Financial officer (OCFO)] should enact a process that addresses whether NRC has recognized a uranium water treatment licensee as a small entity for Part 171 fees, and if so, these licensees should be billed for the Part 170 annual fees in an amount that is commensurate with its small-entity designation. [Waste Remediation Technology (WRT)] is currently designated as a small entity under NRC regulations. It makes logical sense to designate small entities for fixed-fee amounts as they have limited employees, market share, and revenue. Coupled with the items noted above, the argument for changing the Part 170 fee category to a fixed-fee amount for entities such as WRT appears to make sense. (WRT)

Response: The NRC's small business standards only apply to 10 CFR part 171 fees. Fees under 10 CFR part 170 are set as either full cost recovery (billed by the hour at the professional hourly rate of $275) or at a fixed fee depending on the fee class and fee category. As part of the Chief Financial Officers Act of 1990, the NRC reviews the actual hours expended performing licensing actions and develops estimates of the average professional staff hours needed to process licensing actions. The most recent review was perform in FY 2017 and the next review is scheduled for FY 2019. Each year, the NRC calculates new flat fees for specific licensing actions based on the estimated average hours and the new professional hourly rate. As such, flat fees recover the full costs for a particular licensing action on average. No changes were made to the final rule as a result of this comment.

E. Fee Exemptions

Comment: WRT disagrees with NRC's proposal that would limit the timeframe in which a request for a fee exemption must be submitted; limiting it to within ninety (90) days of the date of the NRC's receipt of the work. An applicant or a licensee should not be restricted regarding when it can request an exemption. In the case of a full-cost fee category, if the limit was set at within 90 days of receipt of an application or the work, that would allow for no more than one (1) quarterly invoice cycle from NRC. That is not enough time into the work for the applicant to assess billings and whether it has a need to request an exemption. An applicant should not be restricted as to when in the timeline it can request an exemption. In the alternative, if NRC sees fit to establish a timeline, a licensee should be permitted 180 days to appeal thereby allowing for a thorough review of two quarterly invoices. Without such a timeframe, any licensee would have the incentive to dispute every single quarterly invoice and delay payment until a ruling is rendered by OCFO. WRT does not support abuse of the appeal process and believes this solution provides a disincentive to do so while maintaining fairness in the process. (WRT)

Response: The proposed 90-day timing requirement applies to only those exemption requests submitted under § 170.11(a)(1)—therefore, this 90-day timeframe is limited to only those who are seeking fee exemptions after submitting a request or report to the NRC. Because the basis for a fee exemption under § 170.11(a)(1) exists at the time the entity submits the request/report to the NRC, the new 90-day timeframe will help ensure administrative efficiency and timeliness. Relatedly, because the basis for a fee exemption under § 170.11(a)(1) exists at the time the entity submits the request/report to the NRC, providing additional time to review invoices would not result in any material change to whether an exemption should be granted. Notably, this new timing requirement does not apply to applicants that submit an application for the NRC to review—those applicants remain free to seek a fee exemption at any time. No changes were made to the final rule as a result of this comment.

F. Uranium Recovery

Comment: WRT is also aware of a planned pilot program to be initiated for several of NRC's classes of licensees to establish fixed fees for certain activities such as National Environmental Policy Act (NEPA) processes. WRT fully supports the use of fixed fee programs to assure licensees or would-be-licensees of the amount of human and financial resources that will be necessary for obtaining and maintaining an NRC license, especially in the case of where a company such as WRT generates no revenue from the uranium source material generated by its services and the [Community Water Systems] that are being forced to comply with an unfunded federal mandate. To the extent practicable, WRT would like to offer its input and/or participate in this program to determine what accommodations can be made for it in the future in the event license amendments are sought or the next license renewal is required. (WRT)

Response: The commenter appears to be referencing the flat fee pilot program that the NRC is currently in the process of developing for uranium recovery licensees. No licensees are actively participating in the flat fee pilot program at this time. At this point, the NRC has developed a new data reporting structure, trained staff on its use, and is actively collecting data on licensing costs in order to develop information that would allow the development of recommendations to the Commission regarding a potential flat fee program. The NRC expects to complete its data collection by the end of FY 2018. The staff expects to engage the public on whether to implement any flat fee program for uranium recovery licensees and applicants as part of the FY 2020 fee rulemaking. No changes were made to the final rule as a result of this comment.

Comment: If Wyoming becomes an Agreement State for the purposes of regulating uranium recovery by the

beginning of FY 2019 (October 1, 2018) as NRC has stated, the remaining three licensees are not—nor should they be placed—in a position to pay for the current NRC programmatic infrastructure associated with this category of licensee. NRC has assured stakeholders that they are considering various funding options to avoid this potential outcome; yet, industry has had no visibility of what could be a significant NRC policy and fee rule decision which will impact licensees' purses in less than 8 months. We urge you to engage the potentially remaining NRC licensees on this matter today. Further, it is unclear whether conducting a ''flat fee'' pilot for this category of licensees in FY 2020, as stated by NRC during the February 12, 2018 meeting, is the best use of limited NRC and industry resources. NRC should consult with the potentially remaining licensees and revisit this decision. (NEI–1)

Response: The NRC is aware of the challenge and is currently evaluating options to ensure that annual fees for the uranium recovery fee class remain fair and equitable if Wyoming becomes an Agreement State in FY 2019. The NRC plans to share the results of the evaluation with stakeholders once it is complete. With respect to the flat fee pilot program, the NRC has already developed and implemented the new data structure necessary to collect information that would be used to inform recommendations that the staff would provide to the Commission on the uranium recovery fee class. Only a minimal effort is required to complete the collection of data. The data collection process is expected to be completed by November 2018. Based on Wyoming's status and the collected data, the staff will evaluate how best to proceed and whether the flat fee pilot program continues to be a good use of resources or whether other changes should be pursued. No changes were made to the final rule as a result of this comment.

Comment: WRT asserts that the fee category for uranium drinking water treatment licensees should be changed from its current designation 2.A. (5), with the associated ''full-cost'' fee, to a category with a fixed annual fee. WRT suggests category 2.F. (Program Codes 11200 or 11300), All Other Source Material Licenses, or similar. Charging a full-cost fee to either a company like WRT, or an individual community water system (CWS) is unsustainable for them to comply with the radionuclide-treatment mandate of the [Safe Drinking Water Act (SDWA)]. These types of costs, licensing or otherwise, likely are a primary reason why many CWSs do not treat their water or resort to alternative and, potentially less protective, approaches such as blending water.

The basic premise that uranium drinking water treatment should be in the same overall fee category (the 2.A. activities) with uranium recovery activities is misguided. All the licensed activities in this category are identified as licensees processing and/or recovering uranium source material for the inherent value of the source material, primarily for introduction to or refining in the commercial nuclear fuel cycle—that is where these activities derive their income. Many of these identified licensees also generate 11e. (2) Byproduct material and other kinds of regulated wastes, whereas WRT does not. The action phrases of these various identified licensees and/or activities listed in the 2.A. category of the Schedule speak directly to this point—refining uranium mill concentrates, uranium recovery operations such as milling, ISR, etc. Even the source-material byproduct activities of 2.A. (3) and (4) are activities that are subsequent to uranium recovery or processing operations. All such licensed activities are designed for the licensee to derive their income from the value of the uranium source material and are fuel-cycle or similar such facilities. Further, the level of risk associated with these licensed activities is very low, but those associated with WRT are even lower, and this low level of risk has been demonstrated through the Agreement State-licensed uranium water treatment systems data submitted in WRT's 2016 license renewal application.

Now, compare these activities above with the action phrase of drinking water treatment currently in category 2.A. (5)—''removal of source material contaminants.'' This uranium source material has no inherent value; [Environmental Protection Agency (EPA)] deemed it a contaminant under the SDWA that needed to be removed (not recovered) from drinking water sources based on concerns for public health and safety. The public and private CWSs that must deal with this issue derive no income from the uranium, but instead, it costs them to comply with an unfunded federal mandate. Thus, either WRT or a CWS choosing to perform its own uranium water treatment must bear these costs. As a result, WRT cannot sustain these full-cost fees on its own based on the business model used by the licensee, and CWSs cannot sustain such costs on their own, whether WRT passes such costs on to them for payment, or if such CWSs elect to perform such activities themselves and are forced to pay such costs as an NRC licensee.

It can similarly be argued that WRT is not a ''producer'' of source material, but rather a ''service provider'' consistent with NRC regulations and guidance. Indeed, WRT's initial license application and the format of its current license shows that the identified licensed activities in this license are services provided to third-party entities such as CWSs and not as a part of a mining/milling operation conducted by the same licensee.

Therefore, WRT believes it would be a great source of relief to CWSs requiring uranium water treatment in accord with an unfunded federal mandate or entities such as WRT seeking to assist such CWSs in these endeavors if the fee category for WRT or other similar licensees was revised to a reasonable fixed fee amount.

In the case of WRT's license, support for using the ''other source material'' designation of fee category 2.F. comes from the fact that nearly all of the Agreement State licenses (seven (7)—CA, GA, IL, NM, NC, TX, WI) that WRT holds for uranium and/or radium water treatment have both a fee category similar to NRC's ''other'' category 2.F., and a reasonable fixed fee. Two other Agreement States, Colorado and New Jersey, have issued WRT service-provider licenses, both with reasonable fixed annual fees, also similar to that of NRC fee category 2.F. Indeed, the use of the term ''other'' when describing certain source material licensees fits squarely within the way NRC regulations address WRT. For example, in addition to having the only NRC license of its kind through its performance-based, multi-site nature, NRC's most recent rulemaking regarding small quantities of source material or the rule that address the amount of source material that may be possessed at any one time and during a calendar year in total (*i.e.,* 10 CFR . . . 40.22) reduced the amount of such possessed source material from fifteen (15) pounds at any one time and 150 pounds in a calendar year to much lower limits based on identified entities that were not considered in previous rulemaking and in an attempt to protect public health and safety. However, in this rulemaking, NRC specifically identified licensees such as WRT as excluded from such lower limits and allowed a general license to remain in effect under the previous 15/150 limits. Thus, by this exclusion, NRC specifically identified WRT as a licensee with extremely low risk and capable of handling such levels of source material. Further, the low

level of risk and low requirements for license maintenance (*e.g.,* site registration) are further supported by technical and environmental data in WRT's license renewal application showing the previously projected health and safety risks are indeed extremely conservative and the actual risk is much lower. These unique factors further support treating WRT in a manner different from other 2.A licensees. (WRT)

Response: While WRT's comment articulates a number of arguments to support changing the current fee category designation for uranium drinking water treatment licensees, the NRC considers this change to be outside the scope of this rulemaking because members of the public would not have had sufficient notice of the change requested by the commenter. Further, the NRC would need additional information not currently available to it in order to determine whether a flat fee would be appropriate and provide a method for setting the fee at an appropriate level in order to recover the NRC costs. The staff will take this comment into consideration as it prepares the policy paper in support of the FY 2019 proposed fee rule. As a result, the NRC expects to seek public comment on this issue as part of the FY 2019 fee rulemaking, and that would provide sufficient notice to the public and an opportunity to provide comments on the fee category. For FY 2018, WRT requested and was granted a partial fee-waiver (ADAMS Accession No. ML18102A477) in relation to the NRC's review of its license renewal application. No changes were made to the final rule as a result of this comment.

G. Variance Between Proposed Fee Rule and Final Fee Rule Amounts

Comment: [T]here appears to be greater variance between the annual fees in the proposed and final fee rules in recent years. These fluctuations make it more difficult to manage costs associated with NRC activities over the course of each year. Accordingly, we would welcome any improvements to developing the fee rule that lead to less variability between the proposed and final rules. (HW)

Response: One commenter expressed concern over the recent variance between the proposed rule and the final rule fee amounts. The agency strives to produce fees that accurately reflect the information available to it at the time that the proposed rule is issued for public comment. In the absence of an enacted appropriation, the agency uses the best information available, including the CBJ, information regarding historic appropriations, and a discussion of assumptions used in developing the budgetary resources used to calculate fees. Further, the NRC strives to provide conservative estimates in its proposed rule in order to provide licensees and applicants with information regarding the potential highest fees. Even with the NRC's effort to include conservative estimates in the proposed rule, changes associated with the enacted appropriations (including direction to use carryover, exclusion of activities from the fee-recoverable budget, and other changes) can cause the final fees to be different than the proposed rule. As a result of the FY 2018 enacted appropriations, the total annual fees to be recovered for fuel facilities is $27.7 million, which is a 2.5 percent decrease from FY 2017. However, average annual fees for each fee category in this fee class increased varied from 1.2 to 1.3 percent due to the loss of two licensees. No changes were made to the final rule as a result of this comment.

H. Invoicing

Comment: As Westinghouse understands the new [Enterprise Project Identifier (EPID)/Cost Activity Code (CAC)] structure, it is provided to increase visibility on the NRC charges. The EPIDs identify individual projects and the CACs are generically identified and defined by the Office of the Chief Financial Officer (OCFO); based on the new structure, there is the possibility for one EPID to have multiple CACs. Based on the Westinghouse invoice, we are seeing mixed results in terms of transparency. In some areas, there are EPIDs with multiple CACs (for example, inspections are divided into preparation, travel, and performing the inspection), which we understand is the expectation to increase transparency on the invoices. However, in most areas, there is one CAC per EPID, so there is no further breakdown of the changes within the project and does not increase the transparency on the invoices. We would expect that the NRC offices would abide by the OCFO's new process and adopt more than one CAC per EPID. (WEC)

Response: This comment is outside the scope of this rulemaking because the purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC notes that the use and guidance for EPIDs continues to be improved across the agency, which should continue to provide additional transparency to licensees and applicants. No changes were made to the final rule as a result of this comment.

Comment: Recent improvements in the clarity and transparency of invoices issued to licensees are greatly appreciated. However, additional action is needed to address remaining areas of concern. One such area occurs in billing of inspection costs. Estimates of direct inspection hours are available for each inspection (totaling approximately 1,863 hours/site under the baseline inspection program), but invoices currently do not distinguish between direct inspection hours and inspection support activities. The cost for these support activities, which include documentation, preparation, travel and significance determination efforts, are in many cases double or triple the cost of direct inspection hours (Average 3,488 hours/site). The absence of estimates for support activities necessary for each inspection and a clear identification of support hours presents a challenge for accountability and tracking of inspection costs. Invoices should identify costs associated with the separate and distinct aspects of inspections (*e.g.,* direct inspection hours, preparation, documentation, travel, significance determination process). (NEI–2)

Response: This comment is outside the scope of this rulemaking because the purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC remains dedicated to improving transparency in its fee billing. On January 30, 2015, the staff submitted SECY–15–0015, ''Project Aim 2020 Report and Recommendations'' (ADAMS Accession No. ML15012A594), to the Commission. That paper included, in part, recommendations associated with simplifying how the NRC calculates its fees, improving transparency in the fee billing process, and improving the timeliness of the NRC's communications about fee changes. The Commission approved these recommendations and since that time, the staff has been actively implementing them.

The NRC is implementing a number of initiatives in response to the Commission's direction to provide

better fee billing information to licensees, including information related to the costs of inspections. For example:

(a) As part of the fee transformation initiative, the agency posted resource estimate summaries, which were based on historical inspection data, at *https://www.nrc.gov/docs/ML1727/ML17271A262.pdf* (ADAMS Accession No. ML17271A262). These summaries include information related to direct inspection costs. The table also includes a line item for documentation, preparation, travel to and from the site, plant status, etc. Actual effort may vary based on regional and site needs.

(b) As noted on the NRC's website at *https://www.nrc.gov/about-nrc/regulatory/licensing/sample-invoice.pdf,* the bill to the licensee includes the names of the inspectors for the invoice period, the hours charged, the hourly rate, and total amount billed to the licensee in the invoice period. The bill also includes the cost activity code that the inspectors charged to. The cost activity code distinguishes the inspection-related work from the inspection support-related work.

(c) The agency increased standardization of the financial charging system used by inspectors and all NRC personnel. The new system allows the grouping of costs for a single inspection or other project so that costs are no longer commingled within the invoice for multiple projects, and consolidates all the charges under a given project for the invoice period.

(d) The Division of Inspection and Regional Support within the NRC's Office of Nuclear Reactor Regulation is also working on a new document that will be made publicly available to explain the highlights and overall structure of the Reactor Oversight Process budget model.

The NRC also notes that each inspection procedure includes the direct inspection resource estimates, in hours, required to complete the inspection. Because inspections also include necessary indirect inspection resources such as preparation, documentation and travel, and can vary in complexity depending on the issue being evaluated, the associated hours may deviate from the estimates in the inspection procedure in some cases. The agency looks for trends and biennially evaluates every baseline inspection procedure to determine if resource estimates need to be reallocated.

In summary, the agency provides anticipated hours for inspections through the inspection procedure resource estimates and has taken action to provide better detail and transparency in the invoice. No changes were made to the final rule as a result of this comment.

I. Low-Level Waste Surcharge

Comment: [W]e believe the staff should validate the ''Low Level Waste Surcharge'' (LLW) figures in table IV of the proposed rule (page 3411 of the **Federal Register** Notice). Specifically, it seems illogical that the fuel facilities would be allocated the highest LLW surcharge percentage considering the number of facilities and plants nationwide in some stage of decommissioning. Since NRC fees are based in part on the LLW surcharge, NRC should work with the Department of Energy to ensure the accuracy, completeness and timeliness of data entered into DOE's Manifest Information Management System (MIMS). MIMS contains data on four generator classes, and it is unclear whether fuel cycle facilities are aligned with the class generically identified as ''industrial.'' (NEI–1)

Response: The DOE was required by law (42 U.S.C. 2021g(a)) to establish a computerized database to monitor low-level radioactive wastes. The DOE created and is responsible for the MIMS database that was created to monitor the management of commercial LLW in the United States. The LLW surcharge percentages included in Table IV in the proposed FY 2018 fee rule for Operating Power Reactors, Fuel Facilities, and Materials Users reflect the 5-year average of the data available in MIMS for the relevant licensees. Fuel facilities are aligned with the MIMS Class identified as ''Industry'' and the Fuel Facilities percentage is based on a fraction of the 5-year average for the Industry Class.

At the time the proposed FY 2018 fee rule was issued, the most recent data available from the MIMS database was from 2016. The final FY 2018 fee rule includes updated LLW surcharge percentages which account for the 2017 MIMS data that was recently populated into the database by DOE. The 2017 data included a significant increase to the volume reported under the ''Utility'' Class, which is used to determine the percentage for Power Reactors. The increase to the volume reported under the Utility Class in 2017 shifted the percentages for Fuel Facilities and Power Reactors as seen in Table IV, ''Allocation of Fee-Relief and LLW Surcharge FY 2018.'' As a result, compared to the proposed FY 2018 fee rule, the percentage of the LLW surcharge for Operating Power Reactors increased from 41.0 percent to 75 percent, Fuel Facilities decreased from 46 percent to 20 percent, and Material Users decreased from 13 percent to 5 percent. Please refer to Table IV and the accompanying discussion for additional details.

J. Efficiency

Comment: The NRC needs to continue to pursue improvements in efficient operations. Over several years, the NRC has pursued efficiency improvements through Project AIM and other initiatives that has resulted in small declines of support functions included in the professional hourly rate. These improvements have not translated into the professional hourly rate or annual fees. (NEI–1, NEI–2, WEC)

Response: This comment pertains to agency efficiency and is therefore outside the scope of this rulemaking because the purpose of the NRC's annual fee rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC notes that it has completed several initiatives to improve the efficiency of the agency, some of which include: Reducing the size of the agency through early buy-outs and retirements, as well as reducing corporate support. The NRC continues to look for additional methods to improve the efficiency and flexibility. No changes were made to the final rule as a result of these comments.

Comment: In the Proposed Fee Rule, NRC proposes eleven administrative changes. The first change is to ''revise the methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (Rls).'' The revised methodology proposes removing the 6% of direct billable costs added as an overhead cost to all licensees' invoices, and replace with the ''actual hours for activities that support and directly benefit the assigned licensee or site.''

While Westinghouse applauds NRC for removing the unnecessary allocation, it is unclear how the replacement system (*i.e.,* ''docket-related fee-billable cost activity codes'') will drive efficient work from project managers. We would expect that, to the maximum extent practical, activities that support and directly benefit Westinghouse would be assigned to a specific Enterprise Project Identifier (EPID), rather than a general ''project management'' EPID/Cost Activity Code (CAC). Based on Westinghouse's most recently received invoices, the project manager was responsible for between 24% and 99%

of the invoiced charges to a given docket, so it seems unnecessary to have a separate ''project management'' EPID/CAC. Additionally, Westinghouse requests publically available guidance to the staff on what is ''fee-billable.'' (WEC)

Response: This comment appears to address four distinct issues: (1) Removal of the 6-percent charge; (2) replacement methodology for the 6-percent charge; (3) use of the project management CAC/EPID; and (4) publicly available guidance on fee-billable activities. While the first two items are within the scope of the rule, items 3 and 4 are outside the scope of this rulemaking because the purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, the NRC will provide an informational update on items 3 and 4.

First, the commenter, like other commenters, appears to be generally supportive of the removal of the 6-percent overhead charge for the part 170 bills.

Second, the commenter expresses concern that the replacement system described in the proposed fee rule (*i.e.,* using new docket-related fee-billable CACs) will not result in efficient work from PMs. For PMs, the NRC has decided that no new CACs will be implemented as part of the replacement system; only RIs will be using the new CACs established to replace the 6-percent charge. The replacement system is discussed in more detail above under ''FY 2018—Administrative Changes, 1. Revise the Methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (RIs).''

Third, the commenter requests that activities that support and directly benefit Westinghouse be assigned to a specific EPID and not assigned to a general project management CAC/EPID. As an informational update, the NRC notes that PMs typically use the general project management CAC/EPID combination (*e.g.,* 000958/L–2017–PMP–0023) to capture direct fee-billable services that are not associated with a specific request or activity. Such activities include, for example, time that the PM for a facility spends in discussions with the licensee regarding licensee operations, licensee plans for future license amendment and license renewal submittals, as well as other issues. The use of a more specific EPID would refer to a specific request or activity, and the work recorded under that CAC/EPID combination (*e.g.,* 000958/L–2012–TOP–002) would indicate substantive work on that specific request or activity. When looking at all of the CAC/EPID combinations, time spent on fee-billable general project management activities account for significantly less of the total part 170 fees charged to a particular docket. The NRC, however, appreciates the confusion that could be caused by the general project management CAC description and will consider whether improvements can be made with respect to the CAC.

Fourth, the commenter requests publicly available fee-billable guidance for the staff. As an informational update, the NRC notes that the use and guidance for EPIDs continues to be improved across the agency, which should continue to provide additional transparency to licensees and applicants. At this time, the NRC does not intend to make additional guidance publically available. In 10 CFR part 170, the regulations identify the specific types of the activities that will incur fees for services.

K. Fuel Facilities

Comment: Several commenters raised concerns regarding the ratio of part 170 fees for service to the part 171 annual fees for the Fuel Facilities fee class. They raised concerns regarding the differences in these ratios between different fee classes including the higher ratio of part 170 billing in the Operating Power Reactor fee class. They questioned the reason for these higher non-direct services in the Fuel Facilities fee class and whether the activities are reasonable and appropriate, and requested that the NRC provide additional information regarding these non-direct services. (HW, UUSA)

Response: All NRC fee classes have slightly different ratios of 10 CFR part 170 fees versus 10 CFR part 171 fees because the amount of fees collected by the agency under 10 CFR part 170 are directly impacted by licensee decisions. For the power reactors, for instance, the NRC has been working on new reactor application and design certification reviews, and Fukushima-related activities, license renewal activities, and other complex license amendments such as extended power-up rates have been completed or are winding down. These activities contribute to the lower ratio of 10 CFR part 170 fees versus 10 CFR part 171 fees for the power reactor fee class. By contrast, licensees in the fuel facilities fee class have indicated that they have no desire to make changes to their licenses, which reduces the amount of fees that can be collected under 10 CFR part 170. Further, in a fee class with a small number of licensees (like fuel facilities), these licensing decisions can have a much larger impact on the ratio than with large fee classes (like the power reactors).

With regard to the request for additional information, in public meetings conducted on February 12, 2018, and March 27, 2018, the NRC staff provided an overview of the fuel facilities budget and an illustrative breakdown of NRC costs recovered by 10 CFR part 170 services fees and 10 CFR part 171 annual fees. Slides from these public meetings are available in ADAMS under Accession Nos. ML18040A317 and ML18082A599, respectively. Also you can view them at *https://adams.nrc.gov/wba/.*

No changes were made to the final rule as a result of these comments.

Comment: Several commenters raised concerns regarding the prioritization of resources in the fuel facilities fee class to the most safety significant issues. They requested that the NRC improve the timeliness of license amendments and renewals, transition routine inspections to the resident inspectors, where applicable, reduce inspection frequencies to reflect historical inspection results, and eliminate unnecessary rulemaking initiatives, and maintenance of guidance documents. (NEI–1, NEI–2)

Response: The NRC staff agrees that regulatory initiatives that are of the most benefit in terms of safety or safeguards should be given higher priority. The agency carefully considers the benefits of regulatory initiatives it pursues. For example, the rulemaking process (including associated guidance documents) is a very deliberate and open public process that invites input and feedback from a broad range of stakeholders. We do appreciate that stakeholders may have different views regarding the need for, or benefit to be derived from, various regulatory initiatives. The NRC carefully considers all stakeholder input in its determination of whether or not to recommend proceeding with a given initiative. For rulemakings, this determination is documented in a regulatory analysis which informs the Commission's decision on whether or not to ultimately proceed. In addition, public meetings with licensees on the cumulative effects of regulation have been an effective forum for dialogue on regulatory initiatives being considered and taken by the NRC. No changes were made to the final rule as a result of these comments.

Comment: Several commenters provided views regarding the effort factors matrix, including requests to maintain the current matrix, requests to change the existing matrix's calculation methodology, and proposed changes to the classification of a licensee's specific effort factors. (HW, NFS, UUSA)

Response: In response to industry concerns about the fairness and equity of annual fees charged to fuel facilities, the NRC analyzed its past practice of using an effort factors matrix to calculate annual fees for the fuel facilities fee class to determine if revisions to the current method may be warranted. The NRC held two public meetings to discuss possible alternative approaches to the method of calculating annual fees for the fuel facility fee class including changes to the effort factors matrix. As part of that process, the NRC received numerous comments on the current and alternative methods for determining annual fees. The comments were mixed as to whether NRC should continue working on changes to the methodology for calculating annual fees. Some stakeholders indicated that NRC should continue with this effort, while others stated that NRC should consider alternatives, such as a reduction of budgeted resources, before changing the current fuel facility effort factors matrix.

During the meetings, the staff indicated that it did not intend to make any changes to the method of calculating annual fees in the FY 2018 fee rule since it is in the process of engaging stakeholders, and any recommendations related to the effort factors matrix would be addressed as part of recommendations for the FY 2019 proposed fee rule. The NRC staff will consider these comments, and any other comments on the effort factors matrix, as it prepares the proposed fee rule for FY 2019. No changes were made to the final rule as a result of these comments.

L. Comments Regarding the Size of the Fuel Facilities Budget

Comment: Several commenters expressed concern that the fuel facility business line's budget is too large given the activities performed and the number of licensees. One commenter expressed concern that the level of resources assigned to the fuel facilities fee class was too large in light of the risk profile for the facilities. (HW, NEI–1, NFS, UUSA, WEC)

Response: The fuel facilities business line is responsible for ensuring the safety and security of fuel cycle and greater than critical mass facilities. The business line leads the licensing and oversight of these facilities, as well as domestic material control and accounting and international safeguards implementation activities for the NRC. The business line also supports rulemaking and environmental review activities for fuel facilities.

The NRC has taken steps to right-size the fuel facilities budget to ensure that it reflects the reduced workload in the business line. A peak workload was experienced in FY 2012. The FY 2018 fuel facilities budget of $35.1 million is a third less than the FY 2012 fuel facilities budget of $54.4 million. Further, the 114 FTE in the FY 2018 fuel facilities budget is over a third less than the 184 FTE in the FY 2012 fuel facilities budget.

The NRC's FY 2018 fuel facilities budget has increased slightly from the FY 2017 fuel facilities budget. This small increase resulted from (a) the transfer of 1 FTE of enforcement resources from the nuclear materials users fee class to the fuel facilities fee class to reflect the fee class benefiting from the work being performed by this FTE, and (b) an increase in the NRC fully costed FTE rate. However, the ''Congressional Budget Justification, Fiscal Year 2019,'' (NUREG–1100, Volume 34) includes a decrease of 6 FTE for the fuel facilities business line budget relative to the FY 2018 CBJ, which continues the overall downward trend in the fuel facilities budget.

In public meetings conducted on February 12, 2018, and March 27, 2018, the NRC provided an overview of the fuel facilities budget and an illustrative breakdown of NRC costs recovered by 10 CFR part 170 services fees and 10 CFR part 171 annual fees. Slides from these public meetings are available in ADAMS under Accession Nos. ML18040A317 and ML18082A599, respectively.

Regarding the assertion that the NRC should reduce its budget commensurate with the reduction in the number of fuel facilities that pay fees, the NRC agrees, but that reduction is not linearly proportional as there is a cost for the infrastructure that must be maintained independent of the number of operational fuel facilities. These infrastructure costs include indirect services and the business line portion of corporate support. Indirect services include rulemaking, maintaining guidance for licensees, maintaining procedures for NRC staff, training, and travel. Corporate support includes, for example, the cost for information management, information technology, security, facilities management, rent, utilities, financial management, acquisitions, human resources, and policy support.

The NRC continues to actively evaluate resource requirements, both in terms of overall budget numbers and FTEs, to address changes that occur between budget formulation and execution. The NRC will continue to assess resource requirements and evaluate programmatic efficiencies that could result in additional resource reductions, and make changes as appropriate during budget execution.

One commenter expressed concern regarding the total number of FTEs assigned to a business line. The commenter stated that the resources supporting fuel facilities were 82 FTEs in FY 2017, and the resources increased to 114 FTEs in FY 2018. The numbers identified by the commenter refer to different categories of personnel and are not directly comparable. In FY 2017, 81.7 FTEs were identified as mission-direct resources. In FY 2018, the mission-direct resources increased to 82.7 FTEs. This is the 1 FTE increase discussed previously. The 114 FTEs identified by the commenter refers to the FTE included in the FY 2018 CBJ, which includes both mission-direct and mission-indirect resources.

No changes were made to the final rule as a result of these comments.

M. Decline in Part 170 Fee Collections

Comment: There are eight operating commercial nuclear power plants that have announced premature closings between now and 2025. As power reactors announce premature shutdowns and 10 CFR part 170 user fee collections decrease, the remaining operating power reactors will bear the burden of increased annual fees unless the fee-recoverable portion of the NRC's budget authority decreases. This disparity between lower 10 CFR part 170 user fees and rising 10 CFR part 171 annual fees cannot be maintained and must be promptly corrected. (NEI–2, EXN)

Response: The NRC is aware of and accounts for the decreasing number of nuclear power reactor licensees. For instance, as part of our budgeting process, the NRC tracks licensee plans to cease operations and adjusts its budget requests to reflect the anticipated work and ensure that agency will continue to meet its statutory requirements.

The NRC, however, must comply with OBRA–90, which requires the NRC to collect approximately 90 percent of its annual budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and must

equitably allocate annual fees among the NRC's many licensees. To ensure compliance with OBRA–90, the NRC makes continual organizational improvements to budget only the resources needed to support its regulatory activities.

The amount of user fees collected under 10 CFR part 170 depends on a number of different factors including the professional hourly rate, licensee and applicant decisions to pursue licensing actions, and the amount of hours necessary to resolve any licensing actions. Due to OBRA–90 requirements, examining changes in the 10 CFR part 170 fees and the 10 CFR part 171 fees separately may not account for the overall decreases in the fee class budget or the realized efficiencies. Over the last several years, the fee class budget for the Operating Power Reactors fee class has decreased from $762.1 million in FY 2015 to $669.9 million in the FY 2018 final rule. In the ''Congressional Budget Justification: Fiscal Year 2019'' (NUREG–1100, Volume 34), the Nuclear Reactor Safety program shows continuing declines in requested budgetary resources for FY 2019.

Despite the decreasing number of operating nuclear power plants, the number of licensing actions completed per year has slightly increased over the past two fiscal years and demonstrates the improving efficiencies realized from the Project Aim initiatives including reductions in FTEs and improved management focus on process improvements. The NRC continues to pursue additional improvements to efficiency and ensuring that its budgetary request accurately reflects the anticipated work.

No changes were made to the final rule as a result of these comments.

Comment: Several commenters expressed concern regarding the declining fraction of fees recovered under 10 CFR part 170 (Service Fees) relative to 10 CFR part 171 (Annual Fees), as well as the NRC's overall budget for the Fuel Facilities Fee Class. The commenters noted that these fees were being borne by a decreasing number of facilities with a decreasing number of licensing actions. They also asked for more information on what specific activities contribute to the non-direct portion of the budget that is recovered in the annual fees charged to licensees. (NEI–1, UUSA, WEC)

Response: The NRC is aware of the current economic state of the fuel cycle industry and remains mindful of the impact of its budget on the fees for licensees. The Fuel Facilities Fee Class supports the activities of the fuel facilities business line, including both direct-billable licensing actions and those general activities that indirectly support the agency's mission in these areas. The overall budget for the fuel facilities business line has decreased significantly in recent years. For example, the number of budgeted staff positions in the fuel facilities business line has decreased from 184 FTE in FY 2012 to 114 FTE in FY 2018, or 38 percent. The NRC continues to adjust its proposed budget in line with anticipated work load for the business line.

Since FY 2012, services billed directly to individual fuel facility licensees under 10 CFR part 170 have decreased. The reasons for this include: Fewer applications for new licenses, license renewals, and license amendments; fewer inspections; and less construction inspection activity. The decrease in 10 CFR part 170 collections in recent years has meant that the amount to be recovered by annual fees has not decreased commensurate with the overall decrease in the budget for the fuel facilities business line. Further, the decline in the number of operating fuel facilities (from ten in FY 2012 to seven in FY 2018) has led to an increase in the annual fee burden for the remaining fuel facilities, even though the total budgeted resources for this fee class have dropped during that time period.

The business line must maintain certain minimum requirements in order to meet the NRC's regulatory and statutory oversight role. This includes maintaining expertise in a number of technical areas, including: Integrated safety analysis, radiation protection, criticality safety, chemical safety, fire safety, emergency management, environmental protection, decommissioning, management measures, material control and accounting, physical protection, and information security. Budgeted resources in technical areas are recovered through annual fees as well as user fees.

In a public meeting on March 27, 2018, the NRC staff discussed how the annual fees support other activities that are necessary for the Fuel Facilities Fee Class as a whole. The presentations from the meeting address these areas and are available in ADAMS under Accession No. ML18082A604.

As discussed in the meeting, these activities include, among others, fuel facilities' proportion of corporate support functions for the NRC (for example, infrastructure, financial and information services, and other administrative functions), supervisory and management functions, and non-billable licensing and oversight activities (for example, program development and program maintenance). The cost of these areas together constitute about three-quarters of what is recovered through 10 CFR part 171 annual fees, and thus about half of the total business line budget. The remainder of the annual fee portion includes small amounts to support rulemaking and guidance development, staff training and related travel, and event response. Further detail is presented in the slides on stakeholder feedback from the March 27, 2018 meeting (available in ADAMS under Accession No. ML18082A604). No changes were made to this final rule as a result of these comments.

N. Comments Generally Supporting Actions of the Agency

Several commenters expressed comments generally in favor of actions that the agency is taking with respect to fees, billing, and other aspects of the fee rule process. Comments generally in favor of the agency's actions included comments supporting the public meetings on the proposed fee rule and invoicing, the move to new formats for invoices, plans to support e-billing, and the removal of the 6-percent overhead charge for the 10 CFR part 170 bills. No new or different information was developed as a result of these comments, and thus, no changes to the rule were made because of these comments.

O. Comments on Matters Not Related to This Rulemaking

Several commenters raised issues outside the scope of the FY 2018 fee rule. Commenters raised concerns with the agency's budgeting process and requesting public meetings on the agency's proposed budget. Other commenters were concerned with the agency's overall size. A few commenters raised concerns regarding the fees that are assessed as part of §§ 11.15(e) and 25.17(f); however, those portions of the NRC's regulations are not within the scope of the FY 2018 fee rule. Another commenter raised concerns regarding copyright and tort reform for small businesses, and a commenter requested a ban on offsite drilling.

These matters are outside the scope of this rulemaking. The primary purpose of the NRC's annual fee recovery final rule is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budgeted authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with OBRA–90.

The NRC takes very seriously the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Recognizing the importance of continuous reexamination and improvement of the way the agency does business, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. Though comments addressing these issues may not be within the scope of this final rule, the NRC will consider this input in its future program operations.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[14] the NRC has prepared a regulatory flexibility analysis relating to this rule. The regulatory flexibility analysis is available as indicated in Section XIV, Availability of Documents, of this document.

VI. Regulatory Analysis

Under OBRA–90, the NRC is required to recover approximately 90 percent of its budget authority in FY 2018. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA–90.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, 10 CFR 50.109 (and similar provisions in the NRC's regulations for other licensee fee classes), does not apply to this final rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

The NRC has determined that this rule amends the NRC's administrative requirements in 10 CFR part 170 and 10 CFR part 171. Therefore, this action is categorically excluded from needing environmental review as described in 10 CFR 51.22(c)(1). Consequently, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801–808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC amends the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2018, as required by OBRA–90. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2017 proposed fee rule. The NRC plans to continue to use this compliance guide for FY 2018 and has relabeled the compliance guide to reflect the current fiscal year. The FY 2018 version of the compliance guide is available as indicated in Section XIV, Availability of Documents, of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2019.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./weblink
SECY–16–0009, ''Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities,'' February 9, 2016.	ML16104A158.
SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' August 22, 2016.	ML16194A365.
SECY–17–0026, ''Policy Considerations and Recommendations for Remediation of Non-Military, Unlicensed Historic Radium Sites in Non-Agreement States'' February 22, 2017.	ML17130A783.
Staff Requirements Memorandum for SECY–17–0026, September 7, 2017	ML17250A841.
FY 2018 Final Rule Work Papers	ML18135A044.
FY 2018 Regulatory Flexibility Analysis	ML17319A288.

[14] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

Document	ADAMS Accession No./weblink
FY 2018 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML17319A291.
U.S. Government Accountability Office (GAO) report titled ''Nuclear Regulatory Commission: Regulatory Fee-Setting Calculations Need Greater Transparency'' (GAO–17–232), February 2, 2017.	*http://www.gao.gov/products/GAO-17-232.*
Regulatory Issue Summary 2015–19, ''Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief,'' September 27, 2016.	ML16008A242.
NUREG–1100, Volume 33, ''Congressional Budget Justification: Fiscal Year 2018'' (May 2017).	ML17137A246.
NUREG–1100, Volume 34, ''Congressional Budget Justification: Fiscal Year 2019'' (February 2018).	ML18023B460.
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171.	*http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.*
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005	ML052580332.
OMB's Circular A–25, ''User Charges''	*https://www.whitehouse.gov/omb/circulars_default.*
Fees Transformation Accomplishments	*https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformaton-accomplishments.html.*
FY 2018 Proposed Fee Rule	ML17313A419.
FY 2018 Proposed Rule Work Papers	ML17348A377.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171:

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 2. In § 170.3, add the definitions for *Agency support (corporate support and the IG), Mission-direct program salaries and benefits,* and *Mission-indirect program support* in alphabetical order and remove the definition of *Overhead and general and administrative costs* to read as follows:

§ 170.3 Definitions.

* * * * *

Agency support (corporate support and the IG) means resources located in executive, administrative, and other support offices such as the Office of the Commission, the Office of the Secretary, the Office of the Executive Director for Operations, the Offices of Congressional and Public Affairs, the Office of the Inspector General, the Office of Administration, the Office of the Chief Financial Officer, the Office of the Chief Information Officer, the Office of the Chief Human Capital Officer and the Office of Small Business and Civil Rights. These resources administer the corporate or shared efforts that more broadly support the activities of the agency. These resources also include information technology services, human capital services, financial management, and administrative support.

* * * * *

Mission-direct program salaries and benefits means resources that are allocated to perform core work activities committed to fulfilling the agency's mission of protecting the public health and safety, promoting the common defense and security, and protecting the environment. These resources include the core work activities assigned within the major program business lines (Operating Reactors, New Reactors, Fuel Facilities, Nuclear Materials Users, Decommissioning and Low-Level Waste, and Spent Fuel Storage and Transportation).

Mission-indirect program support means resources that support the core mission-direct activities. These resources include supervisory and nonsupervisory support and mission travel and training. Supervisory and nonsupervisory support and mission travel and training resources assigned under direct business line structure are considered mission-indirect due to their supporting role of the core mission activities.

* * * * *

■ 3. In § 170.11, add paragraph (c) to read as follows:

§ 170.11 Exemptions.

* * * * *

(c) For purposes of paragraph (a)(1) of this section, a request for a fee exemption must be submitted to the CFO within 90 days of the date of the NRC's receipt of the work.

■ 4. Revise § 170.20 to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of $275 per hour.

■ 5. In § 170.21, in the table, revise fee category K. to read as follows:

§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * *	*
K. Import and export licenses: [6]	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b). Application—new license, or amendment; or license exemption request	N/A
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a). Application—new license, or amendment; or license exemption request	N/A
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances. Application—new license, or amendment; or license exemption request	N/A
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application—new license, or amendment; or license exemption request	N/A
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities. Minor amendment to license	N/A

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to August 24, 2018 will be determined at the professional rates in effect when the service was provided.

* * * * * * *

[4] Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

* * * * * * *

[6] Because the Consolidated Appropriations Act, 2018, excludes international activities from the fee-recoverable budget in fiscal year 2018, import and export licensing actions will not be charged fees.

■ 6. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
1. Special nuclear material: [11]	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [6] [Program Code(s): 21213]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210]	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities. [6]	
(a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities. [6] [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities. [6] [Program Code(s): 21130, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [6] [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [4] Application [Program Code(s): 22140].	$1,300.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [4] Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,600.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities. [4] [6] [Program Code(s): 22155].	Full Cost.
2. Source material: [11]	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [6] [Program Code(s): 11400].	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6]	
(a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [6] [Program Code(s): 11555]	Full Cost.
(f) Other facilities [6] [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010].	Full Cost.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [6] [Program Code(s): 11820].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding [7 8]	$1,200.
Application [Program Code(s): 11210].	
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	$2,200.
Application [Program Code(s): 11240].	
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter	$2,700.
Application [Program Code(s): 11230, 11231].	
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	$2,600.
Application [Program Code(s): 11710].	
F. All other source material licenses.	$2,600.
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810].	
3. Byproduct material: [11]	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	$12,900.
Application [Program Code(s): 03211, 03212, 03213].	
(1) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	$17,100.
Application [Program Code(s): 04010, 04012, 04014].	
(2) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20.	$21,400.
Application [Program Code(s): 04011, 04013, 04015].	
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	$3,500.
Application [Program Code(s): 03214, 03215, 22135, 22162].	
(1) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	$4,700.
Application [Program Code(s): 04110, 04112, 04114, 04116].	
(2) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20.	$5,900.
Application [Program Code(s): 04111, 04113, 04115, 04117].	
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5.	$5,100.
Application [Program Code(s): 02500, 02511, 02513].	
(1) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20.	$6,800.
Application [Program Code(s): 04210, 04212, 04214].	
(2) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20.	$8,500.
Application [Program Code(s): 04211, 04213, 04215].	
D. [Reserved]	N/A.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520].	$3,200.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511].	$6,400.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521].	$61,400.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257].	$6,600.
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03250, 03251, 03252, 03253, 03256].	$9,800.
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243].	$2,000.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244].	$1,100.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613].	$5,400.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622].	$7,200.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623].	$9,000.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620].	$7,000.
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. Application [Program Code(s): 03219, 03225, 03226].	$7,200.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5. Application [Program Code(s): 03310, 03320].	$3,100.
(1) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20. Application [Program Code(s): 04310, 04312].	$4,200.
(2) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: More than 20. Application [Program Code(s): 04311, 04313].	$5,200.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5. Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$3,400.
(1) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20. Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	$4,500.
(2) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: More than 20.	$5,700.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	
Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration.	$700.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700].	$2,500.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5). Application [Program Code(s): 02710].	$2,500.
S. Licenses for production of accelerator-produced radionuclides ..... Application [Program Code(s): 03210].	$14,100.
4. Waste disposal and processing: [11]	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234].	$6,800.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232].	$5,000.
5. Well logging: [11]	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112].	$4,500.
B. Licenses for possession and use of byproduct material for field flooding tracer studies. ..... Licensing [Program Code(s): 03113].	Full Cost.
6. Nuclear laundries: [11]	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218].	$21,900.
7. Medical licenses: [11]	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5. Application [Program Code(s): 02300, 02310].	$11,000.
(1) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20. Application [Program Code(s): 04510, 04512].	$14,600.
(2) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: More than 20. Application [Program Code(s): 04511, 04513].	$18,300.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1-5. Application [Program Code(s): 02110].	$8,600.
(1) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6-20. Application [Program Code(s): 04710].	$11,400.
(2) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: More than 20. Application [Program Code(s): 04711].	$14,200.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10]	$5,500.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160].	
8. Civil defense: [11]	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	$2,500.
Application [Program Code(s): 03710].	
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	$5,400.
Application—each device.	
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	$8,900.
Application—each device.	
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	$5,200.
Application—each source.	
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	$1,000.
Application—each source.	
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators. Application	$4,200.
Inspections	Full Cost.
2. Users. Application	$4,200.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects: Including approvals, pre-application/licensing activities, and inspections	Full Cost.
Application [Program Code: 25110].	
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation [11]	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses: [12]	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	N/A.
Application—new license, or amendment; or license exemption request.	
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	N/A.
Application—new license, or amendment; or license exemption request.	
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	N/A.
Application—new license, or amendment; or license exemption request.	
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	N/A.
Application—new license, or amendment; or license exemption request.	
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment.	N/A.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.). *Category 1 (Appendix P, 10 CFR Part 110) Exports:*	
F. Application for export of appendix P Category 1 materials requiring Commission review (*e.g.,* exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I.	N/A.
Application—new license, or amendment; or license exemption request.	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application—new license, or amendment; or license exemption request.	N/A.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of appendix P Category 2 materials requiring Commission review (*e.g.,* exceptional circumstance review under 10 CFR 110.42(e)(4)). Application—new license, or amendment; or license exemption request.	N/A.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review ..... Application—new license, or amendment; or license exemption request.	N/A.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request.	N/A.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment.	N/A.
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20. Application.	$1,800.
17. Master materials licenses of broad scope issued to Government agencies ..... Application [Program Code(s): 03614].	Full Cost.
18. Department of Energy:	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

[12] Because the Consolidated Appropriations Act, 2018, excludes international activities from the fee-recoverable budget in fiscal year 2018, import and export licensing actions will not be charged fees.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 7. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

■ 8. In § 171.3, revise the last sentence to read as follows:

§ 171.3 Scope.

* * * Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

§ 171.5 [Amended]

■ 9. In § 171.5, remove the definition of *Overhead* and *general and administrative costs.*

■ 10. In § 171.15, revise paragraphs (b)(1), (b)(2) introductory text, (c)(1), (c)(2) introductory text, (d)(1) introductory text, (d)(1)(ii), (d)(2) and (3), and (f) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2018 annual fee for each operating power reactor that must be collected by September 30, 2018, is $4,333,000.

(2) The FY 2018 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2018 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2018 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2018 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is $198,000.

(2) The FY 2018 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2018 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2018 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2018 fee-relief adjustment are as follows:

* * * * *

(ii) Activities not attributable to an existing NRC licensee or class of licenses (*e.g.,* support for the Agreement State program); and

* * * * *

(2) The total FY 2018 fee-relief adjustment allocated to the operating power reactor class of licenses is a $3,349,085 fee-relief credit, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2018 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a $33,829 fee-relief credit. This amount is calculated by dividing the total operating power reactor fee-relief adjustment, $3,349,085, by the number of operating power reactors (99).

(3) The FY 2018 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a $172,641 fee-relief credit. The FY 2018 spent fuel storage/reactor decommissioning fee relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is a $1,415 fee-relief credit. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactors licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

* * * * *

(f) The FY 2018 annual fees for licensees authorized to operate a research or test (non-power) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$81,300
Test reactor	81,300

■ 11. In § 171.16, revise paragraphs (a)(2), (d), (e) introductory text, and (e)(2) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

(a) * * *

(2) Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

* * * * *

(d) The FY 2018 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2018 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2018 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [15] [Program Code(s): 21130]	$7,346,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [15] [Program Code(s): 21210]	2,661,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [15] [Program Code(s): 21310, 21320]	N/A
(b) Gas centrifuge enrichment demonstration facility [15]	N/A
(c) Others, including hot cell facility [15]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [11,15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	2,900
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	7,500
E. Licenses or certificates for the operation of a uranium enrichment facility [15] [Program Code(s): 21200]	3,513,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	5,500
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	1,517,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [15] [Program Code(s): 11100]	38,800
(b) Basic *In Situ* Recovery facilities [15] [Program Code(s): 11500]	49,200
(c) Expanded *In Situ* Recovery facilities [15] [Program Code(s): 11510]	55,700
(d) *In Situ* Recovery Resin facilities [15] [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities [15] [Program Code(s): 11555]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [15] [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [15] [Program Code(s): 12010]	22,000
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [15] [Program Code(s): 11820]	6,500
B. Licenses that authorize possession, use, and/or installation of source material for shielding.[16 17] [Program Code: 11210]	3,200
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	5,200
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	6,000
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	7,400
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	9,200
3. Byproduct material:	

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	30,700
(1) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	40,600
(2) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04011, 04013, 04015]	50,600
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	11,400
(1) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	15,100
(2) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04111, 04113, 04115, 04117]	18,900
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	11,500
(1) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	15,200
(2) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20. [Program Code(s): 04211, 04213, 04215]	18,800
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	10,100
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	11,000
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	91,000
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257]	11,100
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	15,500
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	4,300
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	3,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	14,600
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	19,300

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	24,000
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	13,300
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	17,600
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	25,000
(1) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	33,400
(2) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: More than 20. [Program Code(s): 04311, 04313]	41,600
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	8,600
(1) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	11,400
(2) All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: More than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	14,400
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium–226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: [14]	
(1) Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	7,100
(2) Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	7,500
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	30,200
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	[5] N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234]	18,900
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	10,800
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	14,900
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	35,600
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	20,600

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
(1) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	30,100
(2) Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9 19] Number of locations of use: More than 20. [Program Code(s): 04511, 04513]	34,100
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02110]	30,900
(1) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04710]	40,700
(2) Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: More than 20. [Program Code(s): 04711]	50,500
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9 19] [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	13,900
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	7,100
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	7,300
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	12,100
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	7,000
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,400
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200]	[7 20 0]
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	320,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,082,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	122,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, or 7.C.

[10] This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2018 fee-relief adjustment are as follows:

* * * * *

(2) Activities not attributable to an existing NRC licensee or class of licenses (*e.g.,* support for the Agreement State program); and

* * * * *

■ 12. In § 171.17, revise paragraph (a) introductory text to read as follows:

§ 171.17 Proration.

* * * * *

(a) Reactors, 10 CFR part 72 licensees who do not hold 10 CFR part 50 licenses, and materials licenses with annual fees of $100,000 or greater for a single fee category. The NRC will base the proration of annual fees for terminated and downgraded licensees on the fee rule in effect at the time the action is official. The NRC will base the determinations on the proration requirements under paragraphs (a)(2) and (3) of this section.

* * * * *

Dated at Rockville, Maryland, this 11th day of June 2018.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2018–13320 Filed 6–22–18; 8:45 am]

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Part III

The President

Notice of June 22, 2018—Continuation of the National Emergency With Respect to North Korea

Notice of June 22, 2018—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
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Monday, June 25, 2018

Presidential Documents

Title 3—

The President

Notice of June 22, 2018

Continuation of the National Emergency With Respect to North Korea

On June 26, 2008, by Executive Order 13466, the President declared a national emergency with respect to North Korea pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula. The President also found that it was necessary to maintain certain restrictions with respect to North Korea that would otherwise have been lifted pursuant to Proclamation 8271 of June 26, 2008, which terminated the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1–44) with respect to North Korea.

On August 30, 2010, the President signed Executive Order 13551, which expanded the scope of the national emergency declared in Executive Order 13466 to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the continued actions and policies of the Government of North Korea, manifested by its unprovoked attack that resulted in the sinking of the Republic of Korea Navy ship *Cheonan* and the deaths of 46 sailors in March 2010; its announced test of a nuclear device and its missile launches in 2009; its actions in violation of United Nations Security Council Resolutions 1718 and 1874, including the procurement of luxury goods; and its illicit and deceptive activities in international markets through which it obtains financial and other support, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking, which destabilize the Korean Peninsula and imperil United States Armed Forces, allies, and trading partners in the region.

On April 18, 2011, the President signed Executive Order 13570 to take additional steps to address the national emergency declared in Executive Order 13466 and expanded in Executive Order 13551 that would ensure the implementation of the import restrictions contained in United Nations Security Council Resolutions 1718 and 1874 and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

On January 2, 2015, the President signed Executive Order 13687 to expand the scope of the national emergency declared in Executive Order 13466, expanded in Executive Order 13551, and addressed further in Executive Order 13570, to address the threat to the national security, foreign policy, and economy of the United States constituted by the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its destructive, coercive cyber-related actions during November and December 2014, actions in violation of United Nations Security Council Resolutions 1718, 1874, 2087, and 2094, and commission of serious human rights abuses.

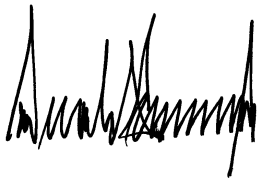
On March 15, 2016, the President signed Executive Order 13722 to take additional steps with respect to the national emergency declared in Executive Order 13466, as modified in scope and relied upon for additional steps in subsequent Executive Orders, to address the Government of North Korea's continuing pursuit of its nuclear and missile programs, as evidenced by

its February 7, 2016, launch using ballistic missile technology and its January 6, 2016, nuclear test in violation of its obligations pursuant to numerous United Nations Security Council Resolutions and in contravention of its commitments under the September 19, 2005, Joint Statement of the Six-Party Talks, that increasingly imperils the United States and its allies.

On September 20, 2017, the President signed Executive Order 13810 to take further steps with respect to the national emergency declared in Executive Order 13466, as modified in scope and relied upon for additional steps in subsequent Executive Orders, to address the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its intercontinental ballistic missile launches of July 3 and July 28, 2017, and its nuclear test of September 2, 2017; its commission of serious human rights abuses; and its use of funds generated through international trade to support its nuclear and missile programs and weapons proliferation.

The existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula and the actions and policies of the Government of North Korea continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13466, expanded in scope in Executive Order 13551, addressed further in Executive Order 13570, further expanded in scope in Executive Order 13687, and under which additional steps were taken in Executive Order 13722 and Executive Order 13810, and the measures taken to deal with that national emergency, must continue in effect beyond June 26, 2018. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to North Korea declared in Executive Order 13466.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
June 22, 2018.

[FR Doc. 2018–13801
Filed 6–22–18; 11:15 am]
Billing code 3295–F8–P

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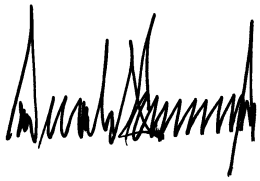
Notice of June 22, 2018

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003, to take additional steps with respect to acts obstructing implementation of the Ohrid Framework Agreement of 2001 relating to Macedonia.

The actions of persons threatening the peace and international stabilization efforts in the Western Balkans, including acts of extremist violence and obstructionist activity, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2018. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans declared in Executive Order 13219.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
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