FEDERAL REGISTER

Vol. 83 Tuesday,

No. 181 September 18, 2018

Pages 47027–47282

OFFICE OF THE FEDERAL REGISTER

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

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

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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

[Docket No. CFPB–2018–0025]

RIN 3170–AA82

Summaries of Rights Under the Fair Credit Reporting Act (Regulation V)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing an interim final rule to update the Bureau's model forms for the Summary of Consumer Identity Theft Rights and the Summary of Consumer Rights to incorporate a notice of rights required by a new provision of the Fair Credit Reporting Act, added by the Economic Growth, Regulatory Relief, and Consumer Protection Act.

DATES: This interim final rule is effective on September 21, 2018. Comments must be received on or before November 19, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2018–0025 or RIN 3170–AA82, by any of the following methods:

- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2018–0025 or RIN 3170–AA82 in the subject line of the email.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Seth Caffrey, David Hixson, Amanda Quester, or Pavneet Singh, Senior Counsels, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Interim Final Rule

Effective September 21, 2018, new section 605A(i)(5) of the Fair Credit Reporting Act (FCRA), added by the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), requires that a new notice of rights be included whenever a consumer is required to receive a summary of rights required by FCRA section 609. This new notice of rights does not appear in the model forms currently in Appendices I and K, which were published on November 14, 2012. The interim final rule amends the model forms to incorporate the new required notice of rights, amends the model form in Appendix I to reflect a statutory change to the minimum duration of initial fraud alerts, and makes adjustments to update contact information for certain FCRA enforcement agencies in the model form in Appendix K. To mitigate the impact of these changes on users of the existing model forms, the interim final rule also provides that the Bureau will regard the use of the model forms published in Appendices I and K on November 14, 2012, to constitute compliance with the FCRA provisions requiring such forms, so long as a separate page that contains the additional required information is provided in the same transmittal. The Bureau is soliciting comment on the interim final rule's amendments to Appendices I and K to inform possible further revisions to the model forms that the Bureau may consider in the future.

II. Background

A. Summaries of Rights Required by the FCRA

Section 609 of the FCRA requires the Bureau to prepare two consumer disclosures: A model summary of rights to obtain and dispute information in consumer reports and to obtain credit scores (Summary of Consumer Rights); and a model summary of rights of identity theft victims (Summary of Consumer Identity Theft Rights).[1] The Bureau's model forms for the Summary of Consumer Identity Theft Rights and the Summary of Consumer Rights are found in Appendices I and K to Regulation V, respectively.

The Summary of Consumer Rights explains certain major consumer rights under the FCRA, including the right to obtain a copy of a consumer report, the frequency and circumstances under which a consumer is entitled to receive a free consumer report, the right to dispute information in a consumer's file, and the right to obtain a credit score. A consumer reporting agency must provide a Summary of Consumer Rights whenever it makes a written disclosure of information from a consumer's file or a credit score to the consumer.[2] The FCRA also requires certain other persons to provide a Summary of Consumer Rights to consumers under specified circumstances.[3]

[1] 15 U.S.C. 1681g(c)(1)(A), (d)(1).

[2] 15 U.S.C. 1681g(c)(2)(A) (requirement to provide a Summary of Consumer Rights with any written file disclosure). A consumer reporting agency must also provide an employer with a Summary of Consumer Rights before furnishing a consumer report for employment purposes. 15 U.S.C. 1681b(b)(1)(B) (requirement to provide a Summary of Consumer Rights with a report for employment purposes if the Summary of Consumer Rights has not been provided previously).

[3] *See, e.g.,* 15 U.S.C. 1681b(b)(3) (generally requiring persons using a consumer report for employment purposes to provide the consumer with a Summary of Consumer Rights before taking

Continued

The Summary of Consumer Identity Theft Rights explains the rights consumers have under the FCRA when they seek to remedy the effects of fraud or identity theft, including the right to place a fraud alert and block certain information from appearing in a consumer report. A consumer reporting agency must provide a Summary of Consumer Identity Theft Rights that contains all of the information required by the Bureau if a consumer contacts the consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor.[4]

Regulation V provides that use or distribution of the Bureau's model forms and disclosures in Appendices I and K, or substantially similar forms and disclosures, will constitute compliance with any FCRA section or subsection requiring that such forms and disclosures be used by or supplied to any person.[5] Substantially similar means that all information in the Bureau's prescribed model is included in the document that is distributed, and that the document distributed is formatted in a way consistent with the format prescribed by the Bureau.[6] The document that is distributed cannot include anything that interferes with, detracts from, or otherwise undermines the information contained in the Bureau's prescribed model.[7]

B. Economic Growth, Regulatory Relief, and Consumer Protection Act

On May 24, 2018, the President signed the Act into law.[8] Section 301(a)(1) of the Act amends the FCRA to extend from 90 days to one year the minimum time that nationwide consumer reporting agencies must include an initial fraud alert in a consumer's file under FCRA section 605A(a)(1)(A). Section 301(a)(2) of the Act adds new FCRA section 605A(i), which requires nationwide consumer reporting agencies to provide national security freezes free of charge to consumers. At any time a consumer is required to receive a summary of rights required under FCRA section 609, new FCRA section 605A(i)(5) requires inclusion of a notice of rights regarding the right to obtain a security freeze. Section 301(c) of the Act provides that the amendments made by section 301 of the Act take effect 120 days after the date of enactment, which is September 21, 2018.

III. Legal Authority

The Bureau is issuing this interim final rule pursuant to its authority under the FCRA and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[9] Effective July 21, 2011, section 1061 of the Dodd-Frank Act [10] transferred to the Bureau the rulemaking and certain other authorities of the Federal Trade Commission (FTC) and the prudential regulators relating to the enumerated consumer laws, including most rulemaking authority under the FCRA.[11] Likewise, section 1088 of the Dodd-Frank Act made conforming amendments to the FCRA transferring rulemaking authority under much of the FCRA to the Bureau,[12] except those regulations applicable to certain motor vehicle dealers.[13] As amended by the Dodd-Frank Act, the FCRA generally authorizes the Bureau to issue regulations ''as may be necessary or appropriate to administer and carry out the purposes and objectives of [the FCRA], and to prevent evasions thereof or to facilitate compliance therewith.'' [14]

IV. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.[15] Similarly, publication of this interim final rule at least 30 days before its effective date is not required if provided for by the Bureau for good cause found.[16]

The Bureau finds that prior notice and public comment are unnecessary because the revisions involve technical changes necessary for the regulation to contain model forms that comply with section 301 of the Act. The revisions merely incorporate a new notice of rights required by the Act into the model forms, update the description of initial fraud alerts in the Summary of Consumer Identity Theft Rights to reflect the new minimum duration of initial fraud alerts specified in the Act, and make adjustments to update contact information for certain FCRA enforcement agencies in the Summary of Consumer Rights. The revisions also include in both model forms optional language clarifying that the security freeze right applies only to nationwide consumer reporting agencies. Entities that do not wish to use the new model forms may use substantially similar forms. They may also continue using the existing model forms (or substantially similar forms) to comply with the provisions in the FCRA that require such forms if they provide the notice of rights required by new FCRA section 605A(i)(5) on a separate page in the same transmittal and, for the Summary of Consumer Identity Theft Rights, a short explanation of the changed minimum duration of initial fraud alerts.

The Bureau also finds that prior notice and public comment are impractical because notice and comment would afford insufficient time to finalize the revisions to the model forms necessary for them to comply with section 301 of the Act before the effective date of that section. If revisions to the model forms were not finalized prior to the effective date of the statutory changes, legal uncertainty and risk could arise as to how entities could comply with both the regulation and section 301 of the Act at the same time.

The Bureau also finds that there is good cause for this interim final rule to be effective less than 30 days after publication to ensure that these necessary technical revisions to the model forms are in effect by the effective date of section 301 of the Act to avoid the legal uncertainty and risk that could arise as to how entities could comply with both the regulation and section 301 of the Act at the same time.

For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for prior public comment are unnecessary and impractical and that there is good cause for this interim final rule to be effective less than 30 days after publication.

any adverse action based on the report). The Bureau must also actively publicize the availability of the Summary of Consumer Rights, conspicuously post its availability on the Bureau's internet website, and promptly make it available to consumers, on request. 15 U.S.C. 1681g(c)(1)(C).

[4] 15 U.S.C. 1681g(d)(2).

[5] 12 CFR 1022.1(c)(1).

[6] 12 CFR 1022.1(c)(2).

[7] *Id.*

[8] Public Law 115–174, 132 Stat. 1296 (2018).

[9] Public Law 111–203, 124 Stat. 1376 (2010).

[10] 12 U.S.C. 5581.

[11] Section 1002(12)(F) of the Dodd-Frank Act designates most of the FCRA as an ''enumerated consumer law.''

[12] The Dodd-Frank Act did not, however, transfer to the Bureau rulemaking authority for FCRA sections 615(e) (''Red Flag Guidelines and Regulations Required'') and 628 (''Disposal of Records'').

[13] Dodd-Frank Act section 1029.

[14] Dodd-Frank Act section 1088(a)(10)(E) (*codified at* 15 U.S.C. 1681s(e)).

[15] 5 U.S.C. 553(b)(B).

[16] 5 U.S.C. 553(d)(3).

V. Section-by-Section Analysis

Appendix I to Part 1022—Summary of Consumer Identity Theft Rights

Effective September 21, 2018, FCRA section 605A(i)(5) requires that whenever a consumer is required to receive a summary of rights required under FCRA section 609, a notice of rights regarding the new security freeze right must be included. This notice of rights does not appear in the model form for the Summary of Consumer Identity Theft Rights currently in Appendix I. To conform to this statutory change, the Bureau is amending the model form in Appendix I to include the new required notice of rights.

Under section 301 of the Act, a security freeze prohibits consumer reporting agencies that are described in FCRA section 603(p) (nationwide consumer reporting agencies) from releasing information subject to various exceptions. To clarify the scope of the new security freeze right under the FCRA, the Bureau has added a sentence before the new notice of rights in the model form in Appendix I stating that the following FCRA right applies with respect to nationwide consumer reporting agencies. The Bureau will regard the model form in Appendix I without this sentence as substantially similar to the model form in Appendix I and will regard use of the model form without this sentence to constitute compliance with the FCRA provisions requiring such forms.

The model form for the Summary of Consumer Identity Theft Rights currently in Appendix I provides that ''[a]n *initial fraud alert* stays in your file for at least 90 days'' (emphasis in original). Effective September 21, 2018, section 301(a)(1) of the Act amends the FCRA to extend the minimum time from 90 days to one year that nationwide consumer reporting agencies must include fraud alerts in a consumer's file under FCRA section 605A(a)(1)(A). To conform to this statutory change, the Bureau is amending the model form in Appendix I to provide that ''[a]n *initial fraud alert* stays in your file for at least one year.''

The Bureau recognizes that some entities may have already begun preparing to implement the Act and may be preparing Summaries of Consumer Identity Theft Rights that include the notice of rights required by FCRA section 605A(i)(5) in a different location on the form than shown on the new model form published today. The Bureau will regard use of forms that are the same as the model form published today but that include the notice of rights required by FCRA section 605A(i)(5) in a different location on the form to constitute compliance with the FCRA provisions requiring the Summary of Consumer Identity Theft Rights and will regard such forms as substantially similar to the model form for the Summary of Consumer Identity Theft Rights published today.[17]

The Bureau recognizes that some entities may find it less burdensome to include the notice of rights required by FCRA section 605A(i)(5) on a separate page in the same transmittal with the Summary of Consumer Identity Theft Rights published on November 14, 2012, and to clarify in the separate page that the Act changed the minimum duration of initial fraud alerts from 90 days to one year. To mitigate the impact of the model form changes on users of the existing model forms, the Bureau will regard the use of the model form for the Summary of Consumer Identity Theft Rights published on November 14, 2012 (or a substantially similar form), with a separate page provided in the same transmittal that includes the notice of rights required by FCRA section 605A(i)(5) and that states on the separate page, before or after the notice of rights required by FCRA section 605A(i)(5), that ''The minimum duration of initial fraud alerts changed from 90 days to one year effective September 21, 2018,'' to constitute compliance with the FCRA provisions requiring the Summary of Consumer Identity Theft Rights.[18] The Bureau will regard the model form for the Summary of Consumer Identity Theft Rights published on November 14, 2012 (or a substantially similar form), provided with such a separate page, as substantially similar to the model form for the Summary of Consumer Identity Theft Rights published in this document.[19]

[17] The Bureau will also regard use of forms that deviate in other ways from the model form published today but that are still substantially similar to the model form published today to constitute compliance with the FCRA provisions requiring the Summary of Consumer Identity Theft Rights.

[18] An entity using this approach need not include the sentence about the minimum duration of initial fraud alerts on the separate page if it changes ''90 days'' to ''one year'' in the model form for the Summary of Consumer Identity Theft Rights published on November 14, 2012. Entities may also, at their option, add the following statement on the separate page before the notice of rights required by FCRA section 605A(i)(5): ''The following FCRA right applies with respect to nationwide consumer reporting agencies.''

[19] The use of the versions of the model forms in Appendices I, K, M, and N as published on December 21, 2011, should be discontinued no later than September 21, 2018. *See* 76 FR 79308 (Dec. 21, 2011); 77 FR 67744 (Nov. 14, 2012); 81 FR 25323 (Apr. 28, 2016).

Appendix K to Part 1022—Summary of Consumer Rights

Effective September 21, 2018, FCRA section 605A(i)(5) requires that whenever a consumer is required to receive a summary of rights required under FCRA section 609, a notice of rights regarding the new security freeze right must be included. This notice does not appear in the model form for the Summary of Consumer Rights currently in Appendix K. To conform to this statutory change, the Bureau is amending the model form in Appendix K to include the new required notice of rights.

Under section 301 of the Act, a security freeze prohibits consumer reporting agencies that are described in FCRA section 603(p) (nationwide consumer reporting agencies) from releasing information subject to various exceptions. To clarify the scope of the new security freeze right under the FCRA, the Bureau has added a sentence before the new notice of rights in the model form in Appendix K stating that the following FCRA right applies with respect to nationwide consumer reporting agencies. The Bureau will regard the model form in Appendix K without this sentence as substantially similar to the model form in Appendix K and will regard use of the model form without this sentence to constitute compliance with the FCRA provisions requiring such forms.

The Bureau has also amended the model form in Appendix K to update contact information provided for certain FCRA enforcement agencies.

The Bureau recognizes that some entities may have already begun preparing to implement the Act and may be preparing Summaries of Consumer Rights that include the notice of rights required by FCRA section 605A(i)(5) in a different location on the form than shown on the new model form published today. The Bureau will regard use of forms that are the same as the model form published today but that include the notice of rights required by FCRA section 605A(i)(5) in a different location on the form to constitute compliance with the FCRA provisions requiring the Summary of Consumer Rights and will regard such forms as substantially similar to the model form for the Summary of Consumer Rights published today.[20]

The Bureau recognizes that some entities may find it less burdensome to

[20] The Bureau will also regard use of forms that deviate in other ways from the model form published today but that are still substantially similar to the model form published today to constitute compliance with the FCRA provisions requiring the Summary of Consumer Rights.

include the notice of rights required by FCRA section 605A(i)(5) on a separate page in the same transmittal with the Summary of Consumer Rights published on November 14, 2012. To mitigate the impact of these changes on users of the existing model forms, the Bureau will regard the use of the model form for the Summary of Consumer Rights published on November 14, 2012 (or a substantially similar form), with a separate page provided in the same transmittal that includes the notice of rights required by FCRA section 605A(i)(5), to constitute compliance with the FCRA provisions requiring the Summary of Consumer Rights.[21] The Bureau will regard the model form for the Summary of Consumer Rights published on November 14, 2012 (or a substantially similar form), provided with such a separate page as substantially similar to the model form for the Summary of Consumer Rights published in this document.[22]

VI. Request for Comment

The Bureau may consider possible further revisions to the model forms in Appendices I and K to Regulation V in the future. Although notice-and-comment rulemaking procedures are not required for the revisions made in this interim final rule, the Bureau invites comment on this interim final rule, implementation of the Act in the model forms, and any other changes that may be necessary or appropriate to the model forms in Appendices I and K to Regulation V.[23]

VII. Effective Date

This interim final rule is effective on September 21, 2018.

VIII. Dodd-Frank Act Section 1022(b) Analysis

A. Overview

In developing the interim final rule, the Bureau has considered the potential benefits, costs, and impacts required by section 1022(b)(2) of the Dodd-Frank Act. Specifically, section 1022(b)(2) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act, and the impact on consumers in rural areas. In addition, section 1022(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with objectives those agencies administer. The Bureau has consulted, or offered to consult, with the prudential regulators and the FTC regarding consistency with any prudential, market, or systemic objectives administered by those agencies.

In considering the relevant potential benefits, costs, and impacts, the Bureau consulted the available data and applied its knowledge and expertise concerning consumer financial markets. Where available, the Bureau used the economic analyses that it regards as most reliable and helpful to consider the relevant potential benefits, costs, and impacts of the interim final rule. However, the Bureau notes that, in some instances, there are limited data available to inform the quantification of the potential benefits, costs, and impacts. Where possible, the Bureau makes quantitative estimates based on economic principles as well as available data. However, where data are limited, the Bureau generally provides a qualitative discussion of the interim final rule's potential benefits, costs, and impacts.

The Bureau is using a post-statute baseline to assess the impact of this interim final rule. Using a post-statute baseline, the analysis evaluates the benefits, costs, and impacts of the interim final rule as compared to enactment of the statute alone. A post-statute baseline focuses the consideration of the benefits, costs, and impacts on the amendments in this interim final rule, which are technical and do not impose any new substantive obligations on regulated entities.[24]

As discussed above, the interim final rule amends Regulation V, which implements the FCRA, to reflect new FCRA section 605A(i), added by the Act. Under the interim final rule, the Bureau is amending two model forms in Regulation V to conform to new FCRA section 605A(i)(5). The amended model form in Regulation V, Appendix K, the Summary of Consumer Rights, reflects two changes relative to the current model form: The addition of a notice of rights that details the consumer's right to a security freeze; and an update to the contact information listed for certain FCRA enforcement agencies. The amended model form in Regulation V, Appendix I, the Summary of Consumer Identity Theft Rights, reflects two changes relative to the current model form: The addition of the same notice of rights detailing the consumer's right to a security freeze that has been added to the Summary of Consumer Rights; and an update to the disclosed minimum amount of time that an initial fraud alert stays in a consumer's file. The rule also includes in both model forms optional language clarifying that the security freeze right applies only to nationwide consumer reporting agencies.

Rather than requiring entities subject to the interim final rule to use the new model forms, the interim final rule allows entities to comply in a variety of ways. These include, for example: (1) Allowing entities to continue to use the current forms while also including a separate page that includes the new statutorily prescribed notice of rights and, with respect to the disclosure in Appendix I, either highlighting in the separate page the change from 90 days to one year for the minimum duration of initial fraud alerts or updating the current forms to include the change in the minimum duration of initial fraud alerts; or (2) allowing entities flexibility as to the placement of the new notice of rights on the forms. For the purpose of this analysis, the Bureau does not differentiate between which of these methods of compliance an entity chooses, and these methods are collectively referred to as the ''alternative approach.''

Regarding baseline behavior and practices, the Bureau assumes that if the interim final rule were not adopted, entities subject to the rule would comply with both new FCRA section 605A(i)(5) and current Regulation V. For the purpose of this analysis, the Bureau assumes that if the interim final rule were not adopted, to convey the information required by new FCRA section 605A(i)(5) along with the information contained in either of the current model forms under current Regulation V, entities subject to the rule would comply in a manner that is substantially similar to the alternative approach described above, using two

[21] Entities may also, at their option, add the following statement on the separate page before the notice of rights required by FCRA section 605A(i)(5): ''The following FCRA right applies with respect to nationwide consumer reporting agencies.''

[22] *See supra* note 18.

[23] We note that, in 2010, the FTC proposed revisions to these and other model forms, but the rulemaking was not finalized. *See* Summary of Rights and Notices of Duties under the Fair Credit Reporting Act, 75 FR 52655 (Aug. 27, 2010).

[24] The Bureau has discretion in future rulemakings to choose the relevant provisions to discuss and the most appropriate baseline for that particular rulemaking. The Bureau also considers the benefits, costs, and impacts of certain other requirements in new FCRA section 605A(i) related to the new disclosure requirements where doing so provides a more complete understanding of the impacts of these requirements on consumers and covered persons.

double-sided sheets of standard printer paper.[25]

As this analysis details below, the similarity between the alternative approach and the assumed behavior and practices under the baseline result in the Bureau estimating minimal additional costs under the interim final rule. Where illuminating, the Bureau also considers the costs to entities of adopting the amended model forms. These analyses demonstrate that the Bureau's estimate of costs is not affected by whether entities adopt the model form or use the alternative approach.

B. Potential Benefits and Costs to Consumers and Covered Persons

Benefits

The impact on consumers of the interim final rule depends on whether a particular consumer prefers, or would otherwise benefit from, receiving the amended disclosures.[26] As described above, this analysis assumes that entities subject to the rule would provide the information required by both new FCRA section 605A(i)(5) and current Regulation V, even if this rule were not adopted. However, this rule provides entities with the option to provide the information from these two sources under the unified disclosure designs of the amended model forms. The Bureau expects that these unified designs will make finding and comprehending information easier for consumers relative to the baseline by lowering the cost to consumers of information search and processing. The precise magnitude of this benefit to consumers is difficult to quantify because the Bureau does not have data regarding how much individual consumers value it. However, the Bureau can estimate, broadly, the scope of consumers who may benefit. Prior to the Act, of the consumers who experienced one or more attempted or successful incidents of identity theft and who also contacted a consumer reporting agency, approximately 70 percent requested a fraud alert be placed on their file.[27] This large proportion reflects a substantial consumer demand for this service.[28] Similarly, prior to the Act, about 40 percent of consumers who experienced one or more attempted or successful incidents of identity theft, and who also contacted a consumer reporting agency, requested a security freeze.[29] After the Act, the Bureau expects demand for fraud alerts and security freezes will increase;[30] and, of the consumers who demand these services, some will become informed through the disclosures required by Regulation V and new FCRA section 605A(i)(5). These consumers are likely to benefit from this rule through lower information search and processing costs relative to the baseline, as described above.

Regarding benefits to industry, this interim final rule harmonizes Regulation V with the FCRA, as amended by the Act. The Bureau intends to reduce legal uncertainty and risk in the industry regarding responsibilities and liabilities among market participants about how they may comply with both the statute and Regulation V at the same time. There may be a general benefit from the certainty and risk reduction provided through this harmonization. However, without data on how entities would comply with the statute and Regulation V absent this interim final rule, the Bureau cannot quantify the benefit of this additional certainty.

Costs

The Bureau estimates minimal additional costs under the interim final rule. The Bureau does not anticipate any additional one-time costs due to this rule, relative to the baseline. Regarding ongoing costs, this interim final rule does not alter the circumstances under which disclosures under the FCRA are required. Nor does the Bureau estimate any additional costs to providing disclosures due to this rule, relative to the baseline. Nonetheless, this analysis considers each of the potential sources of cost for each of the disclosures that are updated by this interim final rule, given the baseline, including: Development of new disclosure templates, destruction or disposal of out-of-date materials, changes to production of disclosures, and changes to delivery of disclosures.

Summary of Consumer Rights

The Bureau believes that the costs of this interim final rule of development of a new Summary of Consumer Rights disclosure template, or destruction or disposal of out-of-date materials, will be minimal. As stated above, the Bureau believes that the alternative approach allowed by this rule is substantially similar to how entities would comply with both new FCRA section 605A(i)(5) and current Regulation V if this interim final rule were not adopted. The Bureau therefore expects that to come into compliance with this rule, relative to the baseline, entities subject to the rule will not incur additional costs to update disclosure templates or to destroy, or dispose of, out-of-date materials.[31]

Regarding production and delivery of the Summary of Consumer Rights disclosure, there are two relevant classes of recipients: Consumers and employers. The Bureau estimates additional costs under the interim final rule to be very small for production and delivery to either class. Each is considered separately below.

For production and delivery to consumers, the Bureau estimates minimal additional costs under the interim final rule. The Bureau expects that the alternative approach will take two double-sided sheets to be printed, which is the same number of sheets as under the approach the Bureau assumes entities will take under the baseline.[32] Since the printing needs are the same, there are no additional costs.[33] It is

[25] The Summary of Consumer Rights model form in current Regulation V can be printed on three sides of standard printer paper. Since the new information required by new FCRA section 605A(i)(5) can be printed on a single side, the combination of these disclosures should take no more than four sides of paper, or two double-sided sheets of paper. The Summary of Consumer Identity Theft Rights model form in current Regulation V can be printed on two sides of standard printer paper. Therefore, the combination of this disclosure and the information required by new FCRA section 605A(i)(5) should take no more than three sides of paper, or the equivalent of two double-sided sheets of paper.

[26] Benefits will also depend on the extent to which entities adopt the model forms or substantially similar forms (rather than using the alternative approach). Since each rule is unique, the Bureau does not have data that would allow it to reliably estimate adoption rates. However, in general, greater adoption of the model forms or substantially similar disclosures will lead to a greater benefit of this rule.

[27] U.S. Dep't. of Justice, *Victims of Identity Theft, 2014* at 1, 18 (Sept. 27, 2015), *available at https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5408*.

[28] The Bureau assumes about one million consumers contact consumer reporting agencies requesting fraud alerts annually. This estimate is based on survey data from the U.S. Department of Justice. Approximately 17.6 million people were victims of identity theft in 2014, and an estimated 8.1 percent contacted a consumer reporting agency. *See id.*

[29] *See id.*

[30] The Act provides, and prescribes the disclosure of, new rights to consumers. The Bureau expects that these new rights will be of value to consumers, and that these new disclosures will help to inform consumers of their rights.

[31] If entities were to choose to adopt the model form, or if this analysis were to adopt a pre-statute baseline, the Bureau would continue to estimate these costs to be small. Because the Bureau is providing model forms, it believes the cost of developing new disclosure templates would be small. Because the Bureau is allowing the alternative approach, it believes that entities could use their old stock rather than destroying or disposing of it.

[32] The Bureau typically accounts for printing costs in terms of the cost of double-sided printing on standard 8.5 inch by 11 inch printer paper. However, this interim final rule does not specify how entities print or the size of the paper they use. Indeed, the Bureau expects that each entity will use the method of printing that is least costly to it.

[33] The Bureau also assumes there to be no substantial cost of electronic distribution, and

Continued

possible that use of the alternative approach could result in an entity using a third sheet of paper to produce the disclosure; however, the Bureau believes that any entity choosing to use an extra sheet of paper under the interim final rule would also choose to do so under the baseline.[34]

For production and delivery to employers, the Bureau estimates minimal additional costs under the interim final rule. Under the FCRA, employers must be provided a copy of the Summary of Consumer Rights disclosure by a consumer reporting agency before the consumer reporting agency furnishes a consumer report for employment purposes, unless the consumer reporting agency already provided a copy of the disclosure to that employer. The Bureau believes that, under the baseline, consumer reporting agencies will provide an updated copy of the Summary of Consumer Rights to employers once the Act takes effect. However, because the Bureau assumes that consumer reporting agencies' baseline approach will be substantially similar to the alternative approach under this interim final rule, the Bureau estimates the cost to sending an updated copy to employers to be the same under the rule as under the baseline.[35]

Summary of Consumer Identity Theft Rights

For the same reasons described in the previous part, the Bureau believes that the additional costs under this interim final rule of development of a new Summary of Consumer Identity Theft Rights disclosure template, or destruction or disposal of out-of-date materials, will be minimal.

Regarding production and delivery of the Summary of Consumer Identity Theft Rights disclosure, the Bureau estimates the total change in costs will be very small. The Bureau expects that the alternative approach will take no more than two double-sided sheets to be printed, which is the same number of sheets as under the approach the Bureau assumes entities will take under the baseline. Since the printing needs are the same, there are no new costs.[36]

The Bureau does not anticipate that the interim final rule will generate costs for consumers, given the baseline.

C. Potential Specific Impacts of the Rule

This analysis estimates minimal additional costs under the interim final rule, and therefore the Bureau does not believe that the rule would reduce consumers' access to consumer financial products or services.

The Bureau does not expect the interim final rule to have distinct impacts on depository institutions and credit unions with $10 billion or less in total assets or on consumers in rural areas, relative to other entities or consumers.

IX. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where general notice of proposed rulemaking is not required.[37] As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this interim final rule. Accordingly the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

X. Paperwork Reduction Act

The Bureau has determined that the interim final rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

XI. Congressional Review Act

Pursuant to the Congressional Review Act,[38] the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the

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therefore that there is no change in costs, regardless of the chosen method of delivery.

[34] If entities were to adopt the model form, then the Bureau would continue to estimate these costs to be small because the amended Summary of Consumer Rights model form disclosure takes two double-sided sheets to be printed, which is the same number of sheets as under the approach the Bureau assumes entities will take under the baseline.

If this analysis were to adopt a pre-statute baseline, then this analysis would still estimate minimal additional costs due to this part of the rule. When printed on double-sided sheets, the disclosure under current Regulation V takes two sheets of standard printer paper, which is the same number of sheets as under both the amended model form and the alternative approach under this interim final rule. Although this rule does technically imply that additional ink would be used relative to printing the current disclosure, the Bureau typically estimates a total cost per sheet of printing inclusive of paper costs, depreciation of printing hardware, and the ink required for a double-sided, completely printed, sheet. Therefore, the implied cost of additional ink would already have been counted in the cost of previous rules.

[35] If entities were to adopt the model form, then the Bureau would continue to estimate additional costs to be small because the amended Summary of Consumer Rights model form disclosure takes two double-sided sheets to be printed, which is the same number of sheets as under the approach the Bureau assumes entities will take under the baseline.

If this analysis were to adopt a pre-statute baseline, the Bureau would estimate a one-time cost to consumer reporting agencies of between $0 and $435,000, depending on the method by which the disclosures are delivered. This estimate assumes printing costs of $0.20 per disclosure (two sheets * $0.10 per sheet), and postage cost of $0.375 per disclosure. *See* U.S. Postal Serv., Postal Explorer—Price List, *https://pe.usps.com/text/dmm300/Notice123.htm#_c096*. It further assumes that there are approximately 757,310 employers in the United States that use consumer reports for employment purposes, and that each employer requests consumer reports from at most one consumer reporting agency. This estimated number of employers comes from the fact that there are approximately 5,726,160 firms in the United States that have employees (2014) and a survey which reported that 13 percent of employers use credit reports to screen candidates for all positions. The reported range of potential cost depends on the proportion of disclosures assumed to be sent electronically. If all disclosures were sent electronically, the estimated cost would be approximately $0. However, if all disclosures were sent via U.S. mail, the estimated cost would be approximately $435,000 (($0.20 + $0.375)*757,310). *See* U.S. Small Bus. Admin., *Firm Size Data, available at https://www.sba.gov/advocacy/firm-size-data and* Society for Human Res. Mgmt., *Background Checking—The Use of Credit Background Checks in Hiring Decisions* (July 19, 2012), *available at https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/creditbackgroundchecks.aspx.*

[36] This analysis assumes there to be no substantial cost of electronic distribution, and therefore no change in costs, regardless of the chosen method of delivery.

If entities were to choose to adopt the model form, the Bureau would continue to estimate the costs to be very small because the amended Summary of Consumer Identity Theft Rights model form disclosure takes two double-sided sheets to be printed, which is the same number of sheets as under the approach the Bureau assumes entities will take under the baseline.

If this analysis were to adopt a pre-statute baseline, printing the amended Summary of Consumer Identity Theft Rights model form would use one additional sheet of paper relative to the current model form, and the total change in costs would be between $0 and approximately $140,000 annually, depending on the methods by which consumer reporting agencies distribute their disclosures. These estimates assume additional printing costs of $0.10 per disclosure (one sheet * $0.10 per sheet), but no additional postage cost (the cost to send a business class letter via the USPS is the same whether it contains one or two sheets of paper). In addition, these estimates assume that about 1.4 million consumers contact consumer reporting agencies regarding identity theft. *See supra* note 26.

An estimated 42 percent of consumers submit disputes to consumer reporting agencies online, 44 percent by mail, 13 percent by phone, and the remainder by fax, walk-ins, or other methods (which the Bureau assumes result in burden resembling disputes submitted by mail). Under the assumptions that these methods of contact are representative of consumer behavior across products, and that consumer reporting agencies respond in-kind to electronic disputes but respond to all other methods of consumer contact via U.S. mail, 42 percent of these disclosures would be sent electronically, and 58 percent would be sent via U.S. mail. This would result in an expected cost to consumer reporting agencies of approximately $81,200 annually. *See* Bureau of Consumer Fin. Protection, *Key Dimensions and Processes in the U.S. Credit Reporting System* 27 (Dec. 2012), *available at http://files.consumerfinance.gov/f/201212_cfpb_credit-reporting-white-paper.pdf.*

[37] 5 U.S.C. 603(a), 604(a).

[38] 5 U.S.C. 801 *et seq.*

Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Banks, Banking, Consumer protection, Credit unions, Fair Credit Reporting Act, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations, State member banks.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

PART 1022—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 1022 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c–1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s–2, 1681s–3, and 1681t; Sec. 214, Public Law 108–159, 117 Stat. 1952.

■ 2. Revise Appendix I to read as follows:

Appendix I to Part 1022—Summary of Consumer Identity Theft Rights

The prescribed form for this summary is a disclosure that is substantially similar to the Bureau's model summary with all information clearly and prominently displayed. A summary should accurately reflect changes to those items that may change over time (such as telephone numbers) to remain in compliance. Translations of this summary will be in compliance with the Bureau's prescribed model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

Para información en español, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

Remedying the Effects of Identity Theft

You are receiving this information because you have notified a consumer reporting agency that you believe that you are a victim of identity theft. Identity theft occurs when someone uses your name, Social Security number, date of birth, or other identifying information, without authority, to commit fraud. For example, someone may have committed identity theft by using your personal information to open a credit card account or get a loan in your name. For more information, visit www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

The Fair Credit Reporting Act (FCRA) gives you specific rights when you are, or believe that you are, the victim of identity theft. Here is a brief summary of the rights designed to help you recover from identity theft.

1. **You have the right to ask that nationwide consumer reporting agencies place "fraud alerts" in your file to let potential creditors and others know that you may be a victim of identity theft.** A fraud alert can make it more difficult for someone to get credit in your name because it tells creditors to follow certain procedures to protect you. It also may delay your ability to obtain credit. You may place a fraud alert in your file by calling just one of the three nationwide consumer reporting agencies. As soon as that agency processes your fraud alert, it will notify the other two, which then also must place fraud alerts in your file.

   - Equifax: 1-800-XXX-XXXX; www.equifax.com
   - Experian: 1-800-XXX-XXXX; www.experian.com
   - TransUnion: 1-800-XXX-XXXX; www.transunion.com

   An initial fraud alert stays in your file for at least one year. An extended alert stays in your file for seven years. To place either of these alerts, a consumer reporting agency will require you to provide appropriate proof of your identity, which may include your Social Security number. If you ask for an extended alert, you will have to provide an identity theft report. An identity theft report includes a copy of a report you have filed with a federal, state, or local law enforcement agency, and additional information a consumer reporting agency may require you to submit. For more detailed information about the identity theft report, visit www.consumerfinance.gov/learnmore.

2. **You have the right to free copies of the information in your file (your "file disclosure").** An initial fraud alert entitles you to a copy of all the information in your file at each of the three nationwide agencies, and an extended alert entitles you to two free file disclosures in a 12-month period following the placing of the alert. These additional disclosures may help you detect signs of fraud, for example, whether fraudulent accounts have been opened in your name or whether someone has reported a change in your address. Once a year, you also have the right to a free copy of the information in your file at any consumer reporting agency, if you believe it has inaccurate information due to fraud, such as identity theft. You also

have the ability to obtain additional free file disclosures under other provisions of the FCRA. See www.consumerfinance.gov/learnmore.

3. **You have the right to obtain documents relating to fraudulent transactions made or accounts opened using your personal information.** A creditor or other business must give you copies of applications and other business records relating to transactions and accounts that resulted from the theft of your identity, if you ask for them in writing. A business may ask you for proof of your identity, a police report, and an affidavit before giving you the documents. It may also specify an address for you to send your request. Under certain circumstances a business can refuse to provide you with these documents. See www.consumerfinance.gov/learnmore.

4. **You have the right to obtain information from a debt collector.** If you ask, a debt collector must provide you with certain information about the debt you believe was incurred in your name by an identity thief – like the name of the creditor and the amount of the debt.

5. **If you believe information in your file results from identity theft, you have the right to ask that a consumer reporting agency block that information from your file.** An identity thief may run up bills in your name and not pay them. Information about the unpaid bills may appear on your consumer report. Should you decide to ask a consumer reporting agency to block the reporting of this information, you must identify the information to block, and provide the consumer reporting agency with proof of your identity and a copy of your identity theft report. The consumer reporting agency can refuse or cancel your request for a block if, for example, you don't provide the necessary documentation, or where the block results from an error or a material misrepresentation of fact made by you. If the agency declines or rescinds the block, it must notify you. Once a debt resulting from identity theft has been blocked, a person or business with notice of the block may not sell, transfer, or place the debt for collection.

6. **You also may prevent businesses from reporting information about you to consumer reporting agencies if you believe the information is a result of identity theft.** To do so, you must send your request to the address specified by the business that reports the information to the consumer reporting agency. The business will expect you to identify what information you do not want reported and to provide an identity theft report.

7. The following FCRA right applies with respect to nationwide consumer reporting agencies:

CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely

approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

To learn more about identity theft and how to deal with its consequences, visit www.consumerfinance.gov/learnmore, or write to the Consumer Financial Protection Bureau. You may have additional rights under state law. For more information, contact your local consumer protection agency or your state Attorney General.

In addition to the new rights and procedures to help consumers deal with the effects of identity theft, the FCRA has many other important consumer protections. They are described in more detail at www.consumerfinance.gov/learnmore.

■ 3. Revise Appendix K to read as follows:

Appendix K to Part 1022—Summary of Consumer Rights

The prescribed form for this summary is a disclosure that is substantially similar to the Bureau's model summary with all information clearly and prominently displayed. The list of Federal regulators that is included in the Bureau's prescribed summary may be provided separately so long as this is done in a clear and conspicuous way. A summary should accurately reflect changes to those items that may change over time (*e.g.,* dollar amounts, or telephone numbers and addresses of Federal agencies) to remain in compliance. Translations of this summary will be in compliance with the Bureau's prescribed model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

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Para información en español, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under FCRA. **For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.

- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:

  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

  In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer

reporting agency, the agency must investigate unless your dispute is frivolous. See www.consumerfinance.gov/learnmore for an explanation of dispute procedures.

- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete, or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.

- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.

- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.consumerfinance.gov/learnmore.

- **You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.** Unsolicited "prescreened" offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address form the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-800-XXX-XXXX.

- The following FCRA right applies with respect to nationwide consumer reporting agencies**:**

  CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

  You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

  As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is

placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.

- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.consumerfinance.gov/learnmore.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:

TYPE OF BUSINESS:	CONTACT:
1.a. Banks, savings associations, and credit unions with total assets of over $10 billion and their affiliates	a. Consumer Financial Protection Bureau 1700 G Street, N.W. Washington, DC 20552
b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:	b. Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357
2. To the extent not included in item 1 above: a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks	a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050
b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.	b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480
c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations	c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106
d. Federal Credit Unions	d. National Credit Union Administration Office of Consumer Financial Protection (OCFP) Division of Consumer Compliance Policy and Outreach 1775 Duke Street Alexandria, VA 22314
3. Air carriers	Asst. General Counsel for Aviation Enforcement & Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590
4. Creditors Subject to the Surface Transportation Board	Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, S.W. Washington, DC 20423
5. Creditors Subject to the Packers and Stockyards Act, 1921	Nearest Packers and Stockyards Administration area supervisor
6. Small Business Investment Companies	Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, S.W., Suite 8200 Washington, DC 20416
7. Brokers and Dealers	Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549
8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations	Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090
9. Retailers, Finance Companies, and All Other Creditors Not Listed Above	Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue, N.W. Washington, DC 20580 (877) 382-4357

Dated: September 11, 2018.

Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–20184 Filed 9–17–18; 8:45 am]

BILLING CODE 4810–AM–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0365; Product Identifier 2017–NM–155–AD; Amendment 39–19399; AD 2018–18–20]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2018. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 23, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0365.

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–2018–0365; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The NPRM published in the **Federal Register** on May 14, 2018 (83 FR 22222). The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations.

We are issuing this AD to address safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0203, dated October 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The MCAI states:

Maintenance requirements and airworthiness limitations for the Airbus A310, A300–600 and A300–600ST family aeroplanes, which are approved by EASA, are currently defined and published in the Airbus A310 and A300–600 Airworthiness Limitations Section (ALS) documents. Certification Maintenance Requirements (CMR) for the Airbus A310 and A300–600, which are approved by EASA, are specified in the Airbus A310 and A300–600 (including A300–600ST) ALS Part 3 documents. These instructions have been identified as mandatory for continuing airworthiness.

Failure to accomplish these instructions could result in an unsafe condition.

EASA previously issued [EASA] AD 2013–0072 [which corresponds to FAA AD 2015–08–06, Amendment 39–18142 (80 FR 23230, April 27, 2015) (''AD 2015–08–06'')] to require the implementation of the maintenance requirements and associated airworthiness limitations as specified in Airbus A310 and A300–600 ALS Part 3 documents at original issue.

Since that [EASA] AD was issued, new or more restrictive maintenance requirements and airworthiness limitations were approved by EASA. Consequently, Airbus published Revision 01 of the A310 ALS Part 3 and A300–600 ALS Part 3, compiling all ALS Part 3 changes approved since original issue.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0072, which is superseded, and requires accomplishment of the actions specified in A310 ALS Part 3 Revision 01 and A300–600 ALS Part 3 Revision 01.

This AD requires revising the maintenance or inspection program to incorporate certain maintenance requirements and airworthiness limitations. The unsafe condition involves safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems.

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–2018–0365.

Comments

We gave the public the opportunity to participate in developing this final rule. We have considered the comment received. FedEx Express indicated its support for the NPRM.

Request To Release Related ADs at the Same Time

Airbus requested that we release this final rule at the same time as the following related ADs to provide clarity to operators. All four pending ADs are related to the removal of the same 15 nose landing gear parts from ALS Part 1, on different airplane models.

• Docket No. FAA–2018–0390, Product Identifier 2017–NM–130–AD (EASA AD 2017–0145, dated August 31, 2017).

• Docket No. FAA–2018–0364, Product Identifier 2017–NM–154–AD (EASA AD 2017–0204, dated October 12, 2017).

• Docket No. FAA–2018–0396, Product Identifier 2017–NM–156–AD (EASA AD 2017–0202, dated October 12, 2017).

We agree with the request. While we cannot ensure that all four final rules will be published on the same date, we will coordinate with the Office of the Federal Register (OFR) and attempt to issue all four final rules at the same time.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the change described previously and minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued A300–600 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017; and A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017. This service information describes mandatory maintenance tasks that operators must perform at specified intervals. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 127 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although this figure may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–20 Airbus SAS: Amendment 39–19399; Docket No. FAA–2018–0365; Product Identifier 2017–NM–155–AD.

(a) Effective Date

This AD is effective October 23, 2018.

(b) Affected ADs

This AD affects AD 2015–08–06, Amendment 39–18142 (80 FR 23230, April 27, 2015) (''AD 2015–08–06'').

(c) Applicability

This AD applies to all Airbus SAS Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; Model A300 C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Airbus A300–600 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017; or Airbus A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017; as applicable. The initial compliance time for accomplishing the actions is at the applicable time specified in Airbus A300–600 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017; or Airbus A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017; as applicable; or within 90 days after the effective date of this AD; whichever occurs later.

(h) No Alternative Actions or Intervals

After accomplishment of the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2015–08–06

Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2015–08–06.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0203, dated October 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0365.

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

(l) Material Incorporated by Reference

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

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

(i) Airbus A300–600 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017.

(ii) Airbus A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 01, dated August 28, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on August 16, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19857 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0327; Product Identifier 2018–CE–001–AD; Amendment 39–19404; AD 2018–19–04]

RIN 2120–AA64

Airworthiness Directives; Learjet, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Learjet, Inc. Models 28, 29, 31, 31A, 35, 35A, 36, 36A, 55, 55B, 55C, and 60 airplanes. This AD was prompted by fatigue cracks initiating in the flap support structure due to repetitive flap loads, which has caused flap nose roller support bracket failure. This AD requires replacement of the flap nose roller fitting, nose roller support bracket, and adjacent rib support structure with improved components. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Learjet, Inc., One Learjet Way, Wichita, Kansas 67209; telephone: 316–946–2000; email: *ac.ict@aero.bombardier.com;* internet: *https://www.bombardier.com.* You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0327.

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–2018–0327; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is

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

FOR FURTHER INFORMATION CONTACT: Tara Shawn, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4141; fax: (316) 946–4107; email: *tara.shawn@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Learjet, Inc. Models 28, 29, 31, 31A, 35, 35A, 36, 36A, 55, 55B, 55C, and 60 airplanes. The NPRM published in the **Federal Register** on May 8, 2018 (83 FR 20740). The NPRM was prompted by a report that a skewed flap and aileron became bound on a Model 31A airplane, which was later found to have fatigue cracks in the flap support structure due to repetitive flap loads. Fatigue cracks in the flap support structure caused by repetitive flap loads can result in failure of the flap nose roller support bracket. Repetitive flap loads occur on all models identified by this AD. The NPRM proposed to require replacement of the flap nose roller fitting, nose roller support bracket, and adjacent rib support structure with improved components. This condition, if not addressed, could result in loss of roll control on approach with consequent loss of control of the airplane. We are issuing this AD to address the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Clarification of Repair Method

We have revised this action to clarify that operators are not required to obtain repair instructions from Learjet. Instead, operators must use a repair method approved by the Manager, Wichita ACO Branch, FAA.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Learjet 28/29 Service Bulletin SB 28/29–27–31 Recommended, dated September 11, 2017; Bombardier Learjet 31 SB 31–27–35 Recommended, dated September 11, 2017; Bombardier Learjet 35/36 SB 35/36–27–50 Recommended, dated September 11, 2017; Bombardier Learjet 55 SB 55–27–41 Recommended, dated September 11, 2017; and Bombardier Learjet 60 SB 60–27–39 Recommended, Revision 1, dated January 15, 2018. For the applicable models, the service information describes procedures for replacement of the flap nose roller fitting, nose roller support bracket, and adjacent rib support structure with improved components. The service information also contains instructions to ensure correct flap alignment. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 706 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
Replacement of flap nose roller fitting, nose roller support bracket, and adjacent rib support structure with improved components.	188 work-hours × $85 per hour = $15,980	$12,213	$28,193	$19,904,258

* Parts cost is an average of the combined costs for replacement of all of the kits per airplane. Not all airplanes will need all kits, as credit is allowed for some previous installations.

INDIVIDUAL PARTS COST *

Kit Number (K/N)	Part cost
K/N 2381000–802	$827
K/N 2381000–804	822
K/N 2381000–806	780
K/N 2381000–808	793
K/N 2381000–809	1,358
K/N 2381000–810	1,358
K/N 2381000–811	1,822
K/N 2381000–817	1,674
K/N 2381000–818	1,432
K/N 2381000–819	1,415
K/N 2381000–820	1,912
K/N 2381000–821	1,912

* Parts required for replacement may vary for different models and different airplanes.

Authority for This Rulemaking

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

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

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

appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–19–04 Learjet, Inc.: Amendment 39–19404; Docket No. FAA–2018–0327; Product Identifier 2018–CE–001–AD.

(a) Effective Date

This AD is effective October 23, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the Learjet, Inc. model airplanes that are certificated in any category, as listed in table 1 to paragraph (c) of this AD.

Table 1 to paragraph (c) of this AD – Affected Models and Serial Numbers

Model	Serial Numbers (S/N)
Learjet Model 28	28-001 through 28-005
Learjet Model 29	29-001 through 29-004
Learjet Model 31	31-001 through 31-034
Learjet Model 31A	31-035 through 31-194
Learjet Model 35	35-001 through 35-059 that has been modified by SSK 0934, "Replacement of Wing Flap Assemblies"; and 35-060 through 35-066
Learjet Model 35A	35-067 through 35-676
Learjet Model 36	36-001 through 36-017 that has been modified by SSK 0934, "Replacement of Wing Flap Assemblies"
Learjet Model 36A	36-018 through 36-063
Learjet Model 55	55-001 through 55-126
Learjet Model 55B	55-127 through 55-134
Learjet Model 55C	55-135 through 55-147
Learjet Model 60	60-001 through 60-179

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2750, TE Flap Control System.

(e) Unsafe Condition

This AD was prompted by reports of fatigue cracks initiating in the flap support structure due to repetitive flap loads. We are issuing this AD to require replacement of the flap nose roller fitting, nose roller support bracket, and adjacent rib support structure with improved components. The unsafe condition, if not addressed, could cause failure of the flap nose roller support bracket and lead to loss of roll control on approach with consequent loss of control of the airplane.

(f) Compliance

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

(g) Corrective Action

(1) *For Models 28 and 29 airplanes:*

(i) Within 24 months after October 23, 2018 (the effective date of this AD) or within 400 landings after October 23, 2018 (the effective date of this AD), whichever occurs first, replace the nose roller fitting, nose roller support bracket, and adjacent rib support structure with replacement parts by following the Accomplishment Instructions in Bombardier Learjet 28/29 Service Bulletin SB 28/29–27–31 Recommended, dated September 11, 2017.

(ii) Although Paragraph 3.B.(1) of the applicable SB for these models that have modified flap roller assemblies requires the operator to contact Learjet Inc. for repair instructions, this AD requires that you do the repair using a method approved by the Manager, Wichita ACO Branch, FAA. For a repair method to be approved by the Manager, Wichita ACO Branch, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(2) *For Models 31 and 31A airplanes:* Within 24 months after October 23, 2018 (the effective date of this AD) or within 400 landings after October 23, 2018 (the effective date of this AD), whichever occurs first, replace the nose roller fitting, nose roller support bracket, and adjacent rib support structure with replacement parts by following the Accomplishment Instructions in Bombardier Learjet 31 SB 31–27–35 Recommended, dated September 11, 2017.

(3) *For Models 35, 35A, 36, and 36A airplanes:* Within 24 months after October 23, 2018 (the effective date of this AD) or within 400 landings after October 23, 2018 (the effective date of this AD), whichever occurs first, replace the nose roller fitting, nose roller support bracket, and adjacent rib support structure with replacement parts by following the Accomplishment Instructions in Bombardier Learjet 35/36 SB 35/36–27–50 Recommended, dated September 11, 2017.

(4) *For Models 55, 55B, and 55C airplanes:* Within 24 months after October 23, 2018 (the effective date of this AD) or within 400 landings after October 23, 2018 (the effective date of this AD), whichever occurs first, replace the nose roller fitting, nose roller support bracket, and adjacent rib support structure with replacement parts by following the Accomplishment Instructions in Bombardier Learjet 55 SB 55–27–41 Recommended, dated September 11, 2017.

(5) *For Model 60 airplanes:* Within 12 months after October 23, 2018 (the effective date of this AD) or within 200 landings after October 23, 2018 (the effective date of this AD), whichever occurs first, replace the nose roller fitting, nose roller support bracket, and adjacent rib support structure with replacement parts by following the Accomplishment Instructions in Bombardier Learjet 60 SB 60–27–39 Recommended, Revision 1, dated January 15, 2018.

(6) *For all airplanes:* Some compliance times in this AD are presented in landings. If you do not keep a record of the total number of landings, then use a 1-to-1 conversion for hours time-in-service (TIS) to landings. Example: 20 hours TIS = 20 landings.

(7) *For Models 31, 31A, 35, 35A, 36, 36A, 55, 55B, 55C, and 60 airplanes:* Although Paragraph 3.B.(2) of the applicable SB for these models that have modified flap roller assemblies requires the operator to contact Learjet Inc. for repair instructions, this AD requires you do the repair using a method approved by the Manager, Wichita ACO Branch, FAA. For a repair method to be approved by the Manager, Wichita ACO Branch, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(h) Credit for Previous Actions

For Model 60 airplanes: This AD allows credit for actions required in paragraph (g)(5) of this AD if done before the effective date of this AD following Bombardier Learjet 60 SB 60–27–39 Recommended, Basic Issue, dated September 11, 2017.

(i) No Reporting Requirement

Although Bombardier Learjet 28/29 SB 28/29–27–31 Recommended, dated September 11, 2017; Bombardier Learjet 31 SB 31–27–35 Recommended, dated September 11, 2017; Bombardier Learjet 35/36 SB 35/36 –27–50 Recommended, dated September 11, 2017; Bombardier Learjet 55 SB 55–27–41 Recommended, dated September 11, 2017; and Bombardier Learjet 60 SB 60–27–39 Recommended, Revision 1, dated January 15, 2018, all specify to submit a compliance response form to the manufacturer per paragraph 3.E., this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita 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.

(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

For more information about this AD, contact Tara Shawn, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4141; fax: (316) 946–4107; email: *tara.shawn@faa.gov* or *Wichita-COS@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Learjet 28/29 Service Bulletin (SB) 28/29–27–31 Recommended, dated September 11, 2017;

(ii) Bombardier Learjet 31 SB 31–27–35 Recommended, dated September 11, 2017;

(iii) Bombardier Learjet 35/36 SB 35/36 –27–50 Recommended, dated September 11, 2017;

(iv) Bombardier Learjet 55 SB 55–27–41 Recommended, dated September 11, 2017; and

(v) Bombardier Learjet 60 SB 60–27–39 Recommended, Revision 1, dated January 15, 2018.

(3) For service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, Kansas 67209; telephone: 316–946–2000; email: *ac.ict@aero.bombardier.com;* internet: *https://www.bombardier.com*.

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1078.

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

Issued in Kansas City, Missouri, on August 31, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–19853 Filed 9–17–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0390; Product Identifier 2017–NM–130–AD; Amendment 39–19397; AD 2018–18–18]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 series airplanes. This AD was prompted by a revision of an airworthiness limitation items (ALI) document. This AD requires revising the maintenance or inspection program, as applicable, to incorporate the specified maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2018.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0390; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 series airplanes. The NPRM published in the **Federal Register** on May 11, 2018 (83 FR 21955). The NPRM was prompted by a revision of an ALI document. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate the specified maintenance requirements and airworthiness limitations.

We are issuing this AD to address the reduced structural integrity of the airplane and possible loss of controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0145, dated August 31, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 series airplanes. The MCAI states:

Some airworthiness limitations previously defined in A300 ALS [Airworthiness Limitations Section] Part 1 have been removed from that document and should normally be included in an ALS Part 4. Airbus does not plan to issue an ALS Part 4 for A300 aeroplanes.

Nevertheless, failure to comply with these airworthiness limitations could result in an unsafe condition.

For the reason described above, it has been decided to require the application of these airworthiness limitations through a separate AD.

Previously, EASA issued AD 2013–0210 [which corresponds to FAA AD 2014–16–13, Amendment 39–17937 (79 FR 51083, August 27, 2014) (''AD 2014–16–13'')] to require implementation of airworthiness limitations applicable to main landing gear (MLG) barrel assembly, retraction actuator assembly, linkage assembly and flanged duct, which were previously defined in Revision 00 of A300 ALS Part 1 but removed from Revision 01 of A300 ALS Part 1, adding those limits as an Appendix to the AD.

Since EASA AD 2013–0210 was issued, improvement of safe life component selection resulted, among others, in removal of 15 nose landing gear (NLG) parts from Revision 02 of A300 ALS Part 1.

Consequently, this [EASA] AD retains the requirements of EASA AD 2013–0210, which is superseded, and requires, in addition to the implementation of airworthiness limitations already contained in EASA AD 2013–0210, the implementation of airworthiness limitations applicable to NLG barrel assembly and shock absorber assembly, previously contained in Revision 01 of A300 ALS Part 1, as specified in Appendix 1 of this AD.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0390.

Comments

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

Request To Supersede AD 2014–16–13

Airbus questioned the need to keep AD 2014–16–13 and whether the proposed AD should instead supersede AD 2014–16–13. Airbus noted that the proposed AD lists all of the ALIs in EASA AD 2017–0145, dated August 31, 2017, not just the ALIs that have been updated since we issued AD 2014–16–13. We infer that Airbus wanted the proposed AD changed to a supersedure AD.

We disagree with the request to change this AD to a supersedure AD. To address the unsafe condition, we chose to match EASA AD 2017–0145, dated August 31, 2017, and include the same ALIs. Because accomplishment of the requirements of this AD terminates all requirements of AD 2014–16–13, a supersedure is not necessary. We have not changed this AD in this regard.

Request To Release Related ADs at the Same Time

Airbus requested that we release this final rule at the same time as the following related ADs to provide clarity to operators. All four pending ADs are related to the same removal of 15 nose landing gear parts from ALS Part 1, on different airplane models.

- Docket No. FAA–2018–0364, Product Identifier 2017–NM–154–AD (EASA AD 2017–0204, dated October 12, 2017).
- Docket No. FAA–2018–0365, Product Identifier 2017–NM–155–AD (EASA AD 2017–0203, dated October 12, 2017).
- Docket No. FAA–2018–0396, Product Identifier 2017–NM–156–AD (EASA AD 2017–0202, dated October 12, 2017).

We agree with the request insofar as we can control the publication schedule. While we cannot ensure that all four will be published on the same date, we will coordinate with the Office of the Federal Register (OFR) and attempt to issue all four final rules at the same time.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

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

Costs of Compliance

We estimate that this AD affects 5 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the

Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–18 Airbus SAS: Amendment 39–19397; Docket No. FAA–2018–0390; Product Identifier 2017–NM–130–AD.

(a) Effective Date

This AD is effective October 23, 2018.

(b) Affected ADs

This AD affects AD 2014–16–13, Amendment 39–17937 (79 FR 51083, August 27, 2014) (''AD 2014–16–13'').

(c) Applicability

This AD applies to Airbus SAS Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a revision of an airworthiness limitation items (ALI) document. We are issuing this AD to prevent reduced structural integrity of the airplane and possible loss of controllability of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the safe life limits included in figure 1 to paragraph (g) of this AD. The initial compliance time for the replacements is prior to the applicable life limits specified in figure 1 to paragraph (g) of this AD, or within 90 days after the effective date of this AD, whichever occurs later. The term ''FH'' in figure 1 to paragraph (g) of this AD means total flight hours. The term ''LDG'' in figure 1 to paragraph (g) of this AD means total airplane landings.

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Figure 1 to paragraph (g) of this AD – *New Life Limits for the Main Landing Gear (MLG) Barrel Assembly, Retraction Actuator Assembly, Linkage Assembly; Pneumatic Flange Duct; Nose Landing Gear (NLG) Barrel Assembly and Shock Absorber Assembly*

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
ATA 32-10-00 MAIN LANDING GEAR										
BARREL ASSEMBLY										
Stirrup	C66277-10	N/A	66600	N/A			X	X	X	X
	C66277-12	N/A	76600	N/A			X	X	X	X
	C66277-14	N/A	76600	N/A			X	X	X	X
	D58303-1	N/A	76600	N/A			X	X	X	X
Stirrup pin	C66457	N/A	76600	N/A			X	X	X	X
	D48939	N/A	76600	N/A			X	X	X	X
	D48939-1	N/A	76600	N/A			X	X	X	X
	D58314-1	N/A	76600	N/A			X	X	X	X
Universal joint	C66279	N/A	76600	N/A			X	X	X	X
	C66279-2	N/A	76600	N/A			X	X	X	X
	C66279-6	N/A	76600	N/A			X	X	X	X
	D58313-1	N/A	76600	N/A			X	X	X	X
Plate (Upper end)	C61637-10	N/A	76600	N/A	X	X				
	C61637-11	N/A	76600	N/A	X	X				
	C61637-12	N/A	76600	N/A	X	X				
Plate (Rear head end)	C61638-10	N/A	53300	N/A	X	X				
	C61638-11	N/A	53300	N/A	X	X				
	C61638-20	N/A	76600	N/A	X	X				
Tie rod	C68523-3	N/A	76600	N/A	X	X				
RETRACTION ACTUATOR ASSEMBLY										
(1) When SB A300-32-0123 embodied before SB A300-32-0113. **(2) When SB A300-32-0123 embodied after SB A300-32-0113.**										
Sliding rod	C69028-1	N/A	34000	N/A	X	X				
	C69028-4	N/A	34000	N/A	X	X				
	C69029-1 (1)	N/A	32000	N/A			X	X	X	X
	C69029-2	N/A	32000	N/A			X	X	X	X
	C69029-3	N/A	32000	N/A			X	X	X	X
	C69029-4 (2)	N/A	22000	N/A			X	X	X	X
Piston	C67078	N/A	33000	N/A			X	X	X	X
	C67078-1	N/A	33000	N/A			X	X	X	X
End fitting	C61342-4	N/A	36700	N/A	X	X				
	C66510-4	N/A	32000	N/A			X	X	X	X

LINKAGE ASSEMBLY										
Upper multiple link pin (Multiple link/Upper link)	C61505	N/A	76600	N/A	X	X				
	C61505-1	N/A	76600	N/A	X	X				
	C61505-20	N/A	76600	N/A	X	X				
ATA 36-11-05 PNEUMATIC										
(1) "xx" at the end of the P/N stands for any number between 00 and 99.										
Duct flanged (1)	A21274063000 xx	N/A	24000	N/A	X		X	X		
ATA 32-20-00 NOSE LANDING GEAR										
BARREL ASSEMBLY (FIG.07)										
(1) Limitation applicable to WV01 & WV03 only. **(2) Part must be replaced by a new one every time it is removed from the barrel.** **(3) The nut must be replaced by a new one every time it is removed from the pin. When the nut is temporarily removed and reinstalled for the purpose of performing maintenance outside a workshop, no replacement is required provided the nut's removal and reinstallation are performed on the same pin and neither the pin nor the nut accumulates time in service during the period between the removal and reinstallation.**										
End fitting pin nut	D68062	N/A	(2)	N/A	X	X	X	X	X	X
	MS17825-6	N/A	(2)	N/A	X	X	X	X	X	X
End fitting pin	AN6-17	N/A	(2)	N/A	X	X	X	X	X	X
	D61183	N/A	(2)	N/A	X	X	X	X	X	X
	D68063	N/A	(2)	N/A	X	X	X	X	X	X
	NAS1306-22D	N/A	(2)	N/A	X	X	X	X	X	X
End fitting	C62032	N/A	65700	N/A	X	X	X	X	X	X
	C62032-1	N/A	65700	N/A	X	X	X	X	X	X
	C62032-2	N/A	65700	N/A	X	X	X	X	X	X
	C62032-10	N/A	65700	N/A	X	X	X	X	X	X
	D61184	N/A	65700	N/A	X	X	X	X	X	X
	D61184-1	N/A	65700	N/A	X	X	X	X	X	X
	D68076	N/A	65700	N/A	X	X	X	X	X	X
	D68695	N/A	65700	N/A	X	X	X	X	X	X
Rack	C61453	N/A	65700	N/A	X	X (1)				
	C61453-1	N/A	65700	N/A	X	X	X	X	X	X
	C61453-15	N/A	65700	N/A	X	X	X	X	X	X
	C61453-20	N/A	65700	N/A	X	X	X	X	X	X
	C61453-40	N/A	65700	N/A	X	X	X	X	X	X
	C61453-41	N/A	65700	N/A	X	X	X	X	X	X
	C61453-205	N/A	65700	N/A	X	X	X	X	X	X

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
Turning tube	C59050-30	N/A	24000	N/A	X	X	X	X	X	X
	C59050-40	N/A	24000	N/A	X	X	X	X	X	X
	C59050-50	N/A	65700	N/A	X	X	X	X	X	X
	C59050-60	N/A	65700	N/A	X	X	X	X	X	X
	C59050	N/A	24000	N/A	X	X (1)				
	C59050-2	N/A	24000	N/A	X	X (1)	X	X	X	X
	C59050-3	N/A	24000	N/A	X	X (1)				
	C59050-4	N/A	24000	N/A	X	X	X	X	X	X
	C59050-20	N/A	24000	N/A	X	X	X	X	X	X
	C59050-28	N/A	24000	N/A	X	X (1)	X	X	X	X
Torque link pin (Upper & Lower)	C62223-1	N/A	65700	N/A	X	X	X	X	X	X
	C62223-15	N/A	65700	N/A	X	X	X	X	X	X
	C62223-20	N/A	65700	N/A	X	X	X	X	X	X
Torque Links (Upper & Lower)	C59562-2	N/A	65700	N/A	X	X	X	X	X	X
	C59562-3	N/A	65700	N/A			X	X	X	X
	C59562-4	N/A	65700	N/A	X	X	X	X	X	X
	C59562-20	N/A	65700	N/A	X	X	X	X	X	X
Torque link medium pin	C62041-1	N/A	65700	N/A	X	X	X	X	X	X
	C62041-15	N/A	65700	N/A	X	X	X	X	X	X
	C62041-20	N/A	65700	N/A	X	X	X	X	X	X
	C62041-200	N/A	65700	N/A	X	X	X	X	X	X
	D53431	N/A	65700	N/A	X	X	X	X	X	X
	D53431-20	N/A	65700	N/A	X	X	X	X	X	X
Torque link medium pin nut	SL40110P	N/A	(3)	N/A	X	X	X	X	X	X
SHOCK ABSORBER ASSEMBLY										
(1) Limitation applicable to WV01 & WV03 only. **(2) Limitation applicable to WV 00 only.** **(3) Limitation applicable to WV 06 only.** **(4) Part must be replaced by a new one every time it is removed from the sliding rod.** **(5) Part must be replaced by a new one every time it is removed from the upper rod.**										
Upper cam dowel	C62270	N/A	(4)	N/A	X	X	X	X	X	X
Upper cam	C62034-1	N/A	65700	N/A	X	X	X	X	X	X
	C62034-10	N/A	65700	N/A	X	X	X	X	X	X
	C68534	N/A	65700	N/A	X	X	X	X	X	X

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
Lower cam	C62035	N/A	65700	N/A	X	X	X	X	X	X
	C62035-1	N/A	65700	N/A	X	X	X	X	X	X
	C68532	N/A	65700	N/A	X	X	X	X	X	X
Restrictor	C62036	N/A	65700	N/A					X (3)	X (3)
	C62036-1	N/A	65700	N/A	X	X (1)				
	C62036-2	N/A	65700	N/A		X (2)				
	C62036-10	N/A	65700	N/A	X	X (1)				
	C67863	N/A	65700	N/A	X	X (1)				
	C67863-1	N/A	65700	N/A	X	X (1)	X	X	X	X
	C67863-2	N/A	65700	N/A	X	X	X	X	X	X
	C67863-3	N/A	65700	N/A	X	X (1)				
	C67863-4	N/A	65700	N/A	X	X	X	X	X	X
	C67863-5	N/A	65700	N/A	X	X (1)				
	C67863-10	N/A	65700	N/A	X	X (1)	X	X	X	X
	C67863-20	N/A	65700	N/A	X	X	X	X	X	X
	C67863-30	N/A	65700	N/A	X	X (1)				
	C67863-40	N/A	65700	N/A	X	X	X	X	X	X
	D68536	N/A	65700	N/A	X	X	X	X	X	X
Lower cam dowel	C62866	N/A	(5)	N/A	X	X	X	X	X	X
Nut (S/A/Barrel)	C64040	N/A	(5)	N/A					X (3)	X (3)
	C64040-1	N/A	(5)	N/A	X	X	X	X	X	X

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(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2014–16–13

Accomplishing the actions required by this AD terminates all requirements of AD 2014–16–13.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA–authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0145, dated August 31, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0390.

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

(l) Material Incorporated by Reference

None.

Issued in Des Moines, Washington, on August 24, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19854 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0396; Product Identifier 2017–NM–156–AD; Amendment 39–19400; AD 2018–18–21]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. This AD was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0396.

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–2018–0396; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. The NPRM published in the **Federal Register** on May 8, 2018 (83 FR 20743). The NPRM was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations.

We are issuing this AD to address the risks associated with the effects of aging on airplane systems. Such effects could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0202, dated October 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. The MCAI states:

> Maintenance requirements and airworthiness limitations for the Airbus A310, A300–600 and A300–600ST family aeroplanes, which are approved by EASA, are currently defined and published in the Airbus A310 and A300–600 Airworthiness Limitations Section (ALS) documents. The System Equipment Maintenance Requirements (SEMR) for the Airbus A310 and A300–600, are specified in the Airbus A310 and Airbus A300–600 (including A300–600ST) ALS Part 4 documents. These instructions have been identified as mandatory for continuing airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> EASA previously issued AD 2013–0075 [which corresponds to FAA AD 2015–02–16, Amendment 39–18083 (80 FR 5028, January 30, 2015) (''AD 2015–02–16'')] to require the implementation of the maintenance requirements and associated airworthiness limitations as specified in Airbus A310 and A300–600 ALS Part 4 documents at Revision 02.
>
> Since that [EASA] AD was issued, new or more restrictive maintenance requirements and airworthiness limitations were approved by EASA. Consequently, Airbus published Revision 03 of A310 and A300–600 ALS Part 4 documents, compiling all ALS Part 4 changes approved since previous Revision 02.
>
> For the reasons described above, this new [EASA] AD retains the requirements of EASA AD 2013–0075, which is superseded, and requires the implementation of the actions specified in Airbus A310 ALS Part 4 Revision 03 and Airbus A300–600 ALS Part 4 Revision 03.

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–2018–0396.

Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment. FedEx Express stated that they had no objections to the proposed AD.

Request To Release Related ADs at the Same Time

Airbus requested in docket numbers, FAA–2018–0390 and FAA–2018–0365 that we release this final rule and the following related ADs at the same time to provide clarity to operators. All four pending ADs are related to the removal of the same 15 nose landing gear parts from ALS Part 1, on different airplane models.

- Docket No. FAA–2018–0390, Product Identifier 2017–NM–130–AD (EASA AD 2017–0145, dated August 31, 2017).
- Docket No. FAA–2018–0364, Product Identifier 2017–NM–154–AD (EASA AD 2017–0204, dated October 12, 2017).
- Docket No. FAA–2018–0365, Product Identifier 2017–NM–155–AD

(EASA AD 2017–0203, dated October 12, 2017).

We agree with the commenter's request insofar as we can control the publication schedule. While we cannot ensure that all four final rules will be published on the same date, we will coordinate with the Office of the Federal Register (OFR) regarding publication of all four final rules at the same time.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued A310 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017; and A300–600 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017. This service information describes new maintenance requirements and airworthiness limitations. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 127 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–21 Airbus SAS: Amendment 39–19400; Docket No. FAA–2018–0396; Product Identifier 2017–NM–156–AD.

(a) Effective Date

This AD is effective October 23, 2018.

(b) Affected ADs

This AD affects AD 2015–02–16, Amendment 39–18083 (80 FR 5028, January 30, 2015) (''AD 2015–02–16'').

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R and F4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to mitigate the risks associated with the effects of aging on airplane systems. Such effects could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Airbus A310 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017; or A300–600 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017; as applicable. The initial compliance time for doing the revised actions is at the applicable time specified in Airbus A310 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017, or A300–600 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017; as applicable; or within 90 days after the effective date of this AD; whichever occurs later.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2015–02–16

Accomplishing the actions required by this AD terminates all requirements of AD 2015–02–16.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0202, dated October 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0396.

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

(l) Material Incorporated by Reference

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

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

(i) Airbus A300–600 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017.

(ii) Airbus A310 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03, dated August 28, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on August 24, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19856 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0364; Product Identifier 2017–NM–154–AD; Amendment 39–19398; AD 2018–18–19]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 and A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0364.

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–2018–0364; or in person at Docket Operations

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 and A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The NPRM published in the **Federal Register** on May 14, 2018 (83 FR 22219). The NPRM was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to prevent fatigue damage in principal structural elements, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0204, dated October 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 and A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The MCAI states:

> The airworthiness limitations for the Airbus A300, A310, A300–600 and A300–600ST family aeroplanes, which are approved by EASA, are currently defined and published in the Airbus A300, A310 and A300–600 Airworthiness Limitations Section (ALS) documents. The Safe Life Airworthiness Limitation Items are specified in the A300, A310 and A300–600 (including the A300–600ST) ALS Part 1 documents. These instructions have been identified as mandatory for continuing airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> EASA previously issued AD 2013–0248 [which corresponds to FAA AD 2015–22–05, Amendment 39–18310 (80 FR 69846, November 12, 2015) (''AD 2015–22–05'')] to require the implementation of the instructions and airworthiness limitations as specified in Airbus A300, A310 and A300–600 ALS Part 1 documents at Revision 01.
>
> Since that [EASA] AD was issued, improvement of safe life component selection and life extension campaigns resulted in life limitations changes, among others new or more restrictive life limitations, approved by EASA. Consequently, Airbus published Revision 02 of the A300, A310 and A300–600 ALS Part 1, compiling all ALS Part 1 changes approved since previous Revision 01.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0248, which is superseded, and requires accomplishment of the actions specified in A300 ALS Part 1 Revision 02, A310 ALS Part 1 Revision 02 and A300–600 ALS Part 1 Revision 02.

This AD requires revising the maintenance or inspection program to incorporate certain maintenance requirements and airworthiness limitations. The unsafe condition is fatigue damage in principal structural elements, which could result in reduced structural integrity of the airplane. 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–2018–0364.

Comments

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

Request To Remove Duplicated Language

Airbus asked that we remove the duplicated language in the Discussion section of the NPRM which repeats the phrase ''compiling all ALS Part 1.''

We agree that the specified language in the Discussion section was duplicated, and have removed this duplication accordingly.

Request To Release Related ADs at the Same Time

Airbus requested in docket numbers, FAA–2018–0390 and FAA–2018–0365 that we release this final rule and the following related ADs at the same time to provide clarity to operators. All four pending ADs are related to the same removal of 15 nose landing gear parts from ALS Part 1, on different airplane models.

- Docket No. FAA–2018–0390, Product Identifier 2017–NM–130–AD (EASA AD 2017–0145, dated August 31, 2017).
- Docket No. FAA–2018–0365, Product Identifier 2017–NM–155–AD (EASA AD 2017–0203, dated October 12, 2017).
- Docket No. FAA–2018–0396, Product Identifier 2017–NM–156–AD (EASA AD 2017–0202, dated October 12, 2017).

We agree with the request insofar as we can control the publication schedule. While we cannot ensure that all four will be published on the same date, we will coordinate with the Office of the Federal Register (OFR) and attempt to issue all four final rules at the same time.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued the following service information, which describes procedures for revising the maintenance or inspection program to incorporate new or more restrictive maintenance requirements and airworthiness limitations. These documents are distinct since they apply to different airplane models.

- For Model A300 series airplanes: Section 4, ''Life Limits (LL)/Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A300 Airworthiness Limitations Section (ALS).
- For Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes): Section 4, ''Life Limits (LL)/Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A300–600 Airworthiness Limitations Section (ALS).
- For Model A310 series airplanes: Section 4, ''Life Limits (LL)/

Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A310 Airworthiness Limitations Section (ALS).

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

Costs of Compliance

We estimate that this AD affects 132 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–19 Airbus SAS: Amendment 39–19398; Docket No. FAA–2018–0364; Product Identifier 2017–NM–154–AD.

(a) Effective Date

This AD is effective October 23, 2018.

(b) Affected ADs

This AD affects AD 2015–22–05, Amendment 39–18310 (80 FR 69846, November 12, 2015) (''AD 2015–22–05'').

(c) Applicability

This AD applies to Airbus SAS Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; Model A300 C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time limits/maintenance checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent fatigue damage in principal structural elements, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate the applicable information specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable. The initial compliance times for accomplishing the tasks is at the applicable times specified in the applicable information specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, or within 90 days after the effective date of this AD, whichever occurs later.

(1) For Model A300 series airplanes: Section 4, ''Life Limits (LL)/Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus A300 Airworthiness Limitations Section (ALS).

(2) For Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes): Section 4, ''Life Limits (LL)/Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus A300–600 Airworthiness Limitations Section (ALS).

(3) For Model A310 series airplanes: Section 4, ''Life Limits (LL)/Demonstrated Fatigue Lives (DF),'' of Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus A310 Airworthiness Limitations Section (ALS).

(h) No Alternative Actions or Intervals

After accomplishment of the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action

Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2015–22–05.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0204, dated October 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0364.

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

(l) Material Incorporated by Reference

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

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

(i) Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A300 Airworthiness Limitations Section (ALS).

(ii) Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A300–600 Airworthiness Limitations Section (ALS).

(iii) Part 1, ''Safe Life Airworthiness Limitation Items (SL—ALI),'' Revision 02, dated August 28, 2017, of the Airbus Model A310 Airworthiness Limitations Section (ALS).

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on August 30, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19858 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2018–0838; Amdt. No. 91–352]

RIN 2120–AL34

Amendment of the Prohibition Against Certain Flights in the Pyongyang Flight Information Region (FIR) (ZKKP)

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

ACTION: Final rule.

SUMMARY: This action amends the prohibition against certain flight operations in the Pyongyang Flight Information Region (FIR) (ZKKP) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier. The FAA is also providing an approval process and exemption information for this Special Federal Aviation Regulations (SFAR), consistent with the approval process and exemption information for more recently published flight prohibition SFARs. This final rule will remain in effect for 2 years.

DATES: This final rule is effective on September 18, 2018.

FOR FURTHER INFORMATION CONTACT: Michael Filippell, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email *michael.e.filippell@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action amends the prohibition of flight operations in the Pyongyang FIR (ZKKP) [1] by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier. From February 17, 1998, until November 3, 2017, the FAA prohibited U.S. civil aviation operations in the Pyongyang FIR (ZKKP) west of 132 degrees east longitude under SFAR No. 79 due to the hazardous situation created by North Korea's military capabilities and its rules of engagement. On November 3, 2017, the FAA issued KICZ Notice to Airmen (NOTAM) A0023/17, prohibiting U.S. civil aviation operations in the entire Pyongyang FIR (ZKKP) due to the hazardous situation created by North Korean military capabilities and activities, including unannounced North Korean missile launches and air defense weapons systems. This amendment to SFAR No. 79 incorporates the November 3, 2017 NOTAM's expanded flight prohibition into the Code of Federal Regulations (CFR). The FAA finds this action necessary due to continued hazards to U.S. civil aviation operations in the entire Pyongyang FIR (ZKKP).

Further, this action moves SFAR No. 79 into subpart M, Special Federal Aviation Regulations, of part 91 and adds an expiration date, consistent with other flight prohibition SFARs. The FAA also is providing an approval process and exemption information for SFAR No. 79, 14 CFR 91.1615, consistent with the approval process and exemption information for more recently published flight prohibition SFARs.

SFAR No. 79, § 91.1615, will expire on September 18, 2020.

[1] The FAA notes that, prior to this rule, the FAA referred to the Pyongyang FIR (ZKKP) as ''the flight information region of the Democratic People's Republic of Korea (DPRK)'' in the title of SFAR No. 79. The FAA has changed that reference in this rule to more accurately represent the FIR name, in accordance with International Civil Aviation Organization (ICAO) naming conventions. The Democratic People's Republic of Korea (DPRK) is the official name of North Korea.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA Administrator's authority to issue rules on aviation safety is found in title 49, U.S. Code, Subtitle I, sections 106(f) and (g). Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the U.S. Government under international agreements.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

This regulation is within the scope of FAA's authority, because it prohibits the persons subject to paragraph (a) of SFAR No. 79, § 91.1615, (formerly paragraph (1)) from conducting flight operations in the entire Pyongyang FIR (ZKKP) due to the continued hazards to the safety of such persons' flight operations, as described in the Background section of this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) also authorizes agencies to forgo the delay in the effective date of the final rule for good cause found and published with the rule. In this instance, the FAA finds good cause to forgo notice and comment because notice and comment would be impracticable and contrary to the public interest. To the extent that the rule is based upon classified information, such information is not permitted to be shared with the general public. Also, threats to U.S. civil aviation and intelligence regarding these threats are fluid. As a result, the agency's original proposal could become unsuitable for minimizing the hazards to U.S. civil aviation in the affected airspace during or after the notice and comment process. The FAA further finds an immediate need to address the hazardous situation for U.S. civil aviation that exists in the Pyongyang FIR (ZKKP) due to North Korean military capabilities and activities, including unannounced North Korean missile launches and air defense weapons systems. These hazards are further described in the Background section of this rule.

For these reasons, the FAA finds good cause to forgo notice and comment and any delay in the effective date for this rule. The FAA also finds that this action is fully consistent with the obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that the FAA exercises its duties consistently with the obligations of the United States under international agreements.

III. Background

On April 24, 1997, the FAA published a final rule, SFAR No. 79, which prohibited certain U.S. civil flight operations within the entire FIR of the Democratic People's Republic of Korea (DPRK or North Korea), *i.e.,* the Pyongyang FIR (ZKKP). 62 FR 20076. In its original form, SFAR No. 79 prohibited all U.S. air carriers or commercial operators; all persons exercising the privileges of an airman certificate issued by the FAA, except such persons operating U.S.-registered aircraft for a foreign air carrier; and all operators of aircraft registered in the U.S., except where the operator of such aircraft is a foreign air carrier, from conducting flight operations through the Pyongyang FIR (ZKKP). At that time, North Korea had begun allowing routine international overflights, and the U.S. Government had lifted its prohibition on the payment of overflight fees to North Korea, which had the practical effect of allowing U.S. operators to fly in the Pyongyang FIR (ZKKP). Nevertheless, the FAA determined that a variety of factors in North Korea posed a potential threat to civil aircraft flying through the Pyongyang FIR (ZKKP), necessitating an FAA flight prohibition.

These factors included the potential for periods of heightened tension on the Korean peninsula, North Korea's high state of military readiness and emphasis on air defense of certain areas, and the fact that the North Korean air defense system included modern surface-to-air missile systems and interceptor aircraft capable of engaging aircraft at cruising altitudes. The FAA further stated that it had been unable to determine the level of coordination and cooperation between North Korean civil air traffic authorities and air defense commanders for civil aircraft overflights, including military rules of engagement if an aircraft were to stray from its assigned flight route. The FAA was concerned that any lack of coordination, combined with North Korea's air defense capabilities, including its rules of engagement and limited capability to distinguish between military and civil aircraft, could result in civil aircraft operating in the Pyongyang FIR (ZKKP) west of 132 degrees east longitude being misidentified and inadvertently engaged by North Korea. In the FAA's view, this potential threat justified a prohibition on U.S. civil aviation operations in the Pyongyang FIR (ZKKP) west of 132 degrees east longitude.

With respect to U.S. civil aviation operations in the Pyongyang FIR (ZKKP) east of 132 degrees east longitude, the FAA indicated that, since it had not yet reviewed all applicable safety information provided by North Korea and necessary for operators to meet international safety standards prescribed by the International Civil Aviation Organization (ICAO), it had not determined that the proper level of operational overflight safety could be assured. Remaining issues for review included, but were not limited to: Differences from ICAO standards, if any; search and rescue capabilities and procedures; and North Korean military pilot training in the proper civil aircraft intercept procedures. The FAA stated that, once this information was reviewed, the FAA was prepared to amend SFAR No. 79, as warranted, to permit U.S. civil flights in the Pyongyang FIR (ZKKP) east of 132 degrees east longitude. 62 FR 20077.

Subsequently, North Korea provided the FAA with a copy of its Aeronautical Information Publication (AIP). Following a review of North Korea's AIP, the FAA determined that the proper level of flight safety could be assured for overflights occurring in the international airspace of the Pyongyang FIR (ZKKP) east of 132 degrees east longitude. On February 17, 1998, the FAA published a final rule amending SFAR No. 79 to permit U.S. civil aviation to conduct flights in the Pyongyang FIR (ZKKP) east of 132 degrees east longitude. 63 FR 8016; corrected at 63 FR 19286, (Apr. 17, 1998).

In recent years, North Korea has conducted a number of provocative actions that posed flight safety hazards and necessitated the FAA's issuance of various advisory NOTAMs regarding the

Pyongyang FIR (ZKKP) and adjacent areas to warn U.S. civil aviation of these hazards. In 2014, North Korea initiated a ballistic missile test program involving frequent unannounced missile launches into the Sea of Japan. A number of the missiles impacted in the Pyongyang FIR (ZKKP) east of the eastern boundary of SFAR No. 79 and in relatively close proximity to international air routes transiting the region. North Korea, as recently as April 2016, has also employed electronic jamming equipment on several occasions for intentional interference with aviation and maritime navigation and communication networks. While these intentional interference events have primarily impacted flight operations in the Incheon (RKRR) FIR, the associated capabilities and effects could also affect operations in adjoining airspace, including the Pyongyang FIR (ZKKP). In recent months, increased North Korean military capabilities and activities, including upgraded air defense weapons systems and unannounced North Korean missile launches, have increased the risk of U.S. civil aviation operating in the Pyongyang FIR (ZKKP) east of 132 degrees east longitude being either misidentified as a threat and inadvertently engaged by North Korea or struck by a missile or debris from an unannounced launch. Such events could involve loss of life, injuries, and property damage.

In response to this situation, the FAA issued KICZ NOTAM A0023/17 on November 3, 2017, to prohibit flight operations in the entire Pyongyang FIR (ZKKP), including the area east of 132 degrees east longitude, by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier.

IV. Discussion of the Final Rule

As a result of the significant continuing risk to U.S. civil aviation in the Pyongyang FIR (ZKKP), including the area east of 132 degrees east longitude, and given the uncertainty about when the above-described hazards will abate sufficiently to allow for safe U.S. civil aviation operations therein, this amendment to SFAR No. 79, § 91.1615, incorporates the flight prohibition contained in KICZ NOTAM A0023/17. To maintain consistency with other flight prohibition SFARs, the FAA moves SFAR No. 79 into subpart M of part 91, Special Federal Aviation Regulations. SFAR No. 79 will now be found at 14 CFR 91.1615. The FAA also adds an expiration date to SFAR No. 79 of September 18, 2010. Finally, the FAA is also publishing an approval process and exemption information for this SFAR, which is similar to those for more recently published flight prohibition SFARs.

The FAA will continue to actively monitor the situation and evaluate the extent to which U.S. civil operators and airmen may be able to operate safely in the Pyongyang FIR (ZKKP). Amendments to SFAR No. 79, § 91.1615, may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind SFAR No. 79, § 91.1615, as necessary, prior to its expiration date.

V. Approval Process Based on a Request From a Department, Agency, or Instrumentality of the United States Government

A. Approval Process Based on a Request From a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. Government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in the Pyongyang FIR (ZKKP). If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person covered under SFAR No. 79, § 91.1615, including a U.S. air carrier or commercial operator, to conduct a charter to transport civilian or military passengers or cargo, or other operations, in the Pyongyang (ZKKP) FIR, that department, agency, or instrumentality may request the FAA to approve persons covered under SFAR No. 79, § 91.1615, to conduct such operations.

An approval request must be made directly by the requesting department, agency, or instrumentality of the U.S. Government to the FAA's Associate Administrator for Aviation Safety in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality. The senior official signing the letter requesting FAA approval on behalf of the requesting department, agency, or instrumentality must be sufficiently highly placed within his or her organization to demonstrate that the senior leadership of the requesting department, agency, or instrumentality supports the request for approval and is committed to taking all necessary steps to minimize operational risks to the proposed flights. The senior official must also be in a position to: (1) Attest to the accuracy of all representations made to the FAA in the request for approval and (2) ensure that any support from the requesting U.S. Government department, agency, or instrumentality described in the request for approval is in fact brought to bear and is maintained over time. The FAA will not accept or consider requests for approval by anyone other than the requesting department, agency, or instrumentality. Unless justified by exigent circumstances, requests for approval must be submitted to the FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality intends to commence the proposed operations.

The letter must be sent to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request that the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons covered under SFAR No. 79, § 91.1615, and/or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the Pyongyang FIR (ZKKP) where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Pyongyang FIR (ZKKP) and the airports, airfields and/or landing zones at which the aircraft will take-off and land; and
- The method by which the department, agency, or instrumentality will provide, or how the operator will otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of the proposed operations (*i.e.,* pre-mission planning and briefing, in-flight, and post-flight phases).

The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the Pyongyang FIR (ZKKP). Additional operators may be identified to the FAA at any time after the FAA approval is issued. However, all additional operators must be identified to, and obtain an Operations Specification (OpSpec) or Letter of Authorization (LOA), as appropriate, from the FAA for operations in the Pyongyang FIR (ZKKP), before such operators commence such operations. The approval conditions discussed below apply to any such additional operators. Updated lists should be sent to the email address to be obtained from the Air Transportation Division by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Michael Filippell for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 79, § 91.1615, does not relieve persons subject to this SFAR of their responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificate, OpSpecs, and LOAs, as applicable. Operators must also comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If the FAA approves the request, the FAA's Aviation Safety Organization (AVS) will send an approval letter to the requesting department, agency, or instrumentality informing it that the FAA's approval is subject to all of the following conditions:

(1) The approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator, while still allowing the operator to achieve its operational objectives.

(2) Before any approval takes effect, the operator must submit to the FAA:

(a) A written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses; and

(b) The operator's written agreement to indemnify the U.S. Government with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising from or related to the approved operations in the Pyongyang FIR (ZKKP).

(3) Other conditions that the FAA may specify, including those that may be imposed in OpSpecs or LOAs, as applicable.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.

If the proposed operations are approved, the FAA will issue an OpSpec or an LOA, as applicable, to the operator(s) identified in the original request. The FAA-issued OpSpec or LOA, as applicable, authorizes the operator(s) to conduct the approved operations. The FAA will also notify the department, agency, or instrumentality that requested FAA approval of such operation(s) of any additional conditions beyond those contained in the approval letter.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval issued by the FAA through the approval process set forth previously must be conducted under an exemption from SFAR No. 79, § 91.1615. A petition for an exemption must comply with 14 CFR part 11 and requires exceptional circumstances beyond those contemplated by the approval process described in the previous section. In addition to the information required by 14 CFR 11.81, at a minimum, the requestor must describe in its submission to the FAA—

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by the SFAR;
- The specific locations in the Pyongyang FIR (ZKKP) where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Pyongyang FIR (ZKKP) and the airports, airfields and/or landing zones at which the aircraft will take-off and land;
- The method by which the operator will obtain current threat information, and an explanation of how the operator will integrate this information into all phases of its proposed operations (*i.e.,* pre-mission planning and briefing, in-flight, and post-flight phases); and
- The plans and procedures that the operator will use to minimize the risks, identified in the Background section of this rule, to the proposed operations, so that granting the exemption would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. The FAA has found comprehensive, organized plans and procedures of this nature to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

Additionally, the release and agreement to indemnify, as referred to previously, are required as a condition of any exemption issued under SFAR No. 79, § 91.1615.

The FAA recognizes that operations that may be affected by SFAR No. 79, § 91.1615, may be planned for the governments of other countries with the support of the U.S. Government. While these operations will not be permitted through the approval process, the FAA will consider exemption requests for such operations on an expedited basis and prior to any private exemption requests.

VII. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), 19 U.S.C. chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards.

Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined that this final rule has benefits that justify its costs. This rule is a significant regulatory action, as defined in section 3(f) of Executive Order 12866, as it raises novel policy issues contemplated under that Executive Order. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously.

A. Regulatory Evaluation

This rule prohibits U.S. civil flights in the entire Pyongyang FIR (ZKKP), including the area east of 132 degrees east longitude, due to the significant hazards to U.S. civil aviation described in the Background section of this preamble. By mid-summer 2017, most, if not all, U.S. scheduled operators had voluntarily ceased flying in the portion of the Pyongyang FIR (ZKKP) east of 132 degrees east longitude due to the hazards posed by unannounced North Korean missile launches and increased tensions in the region. Nevertheless, in the rare cases where U.S. operators might have opted to transit that area but for this final rule, alternative flight routes could result in additional fuel usage and other flight time-associated operator costs, as well as costs attributed to passenger time. The FAA believes there are very few, if any, U.S. operators who intend to operate in the Pyongyang FIR (ZKKP) at this time due to the hazards described in the Background section of this final rule. The FAA anticipates receiving very few, if any, requests to operate in the Pyongyang FIR (ZKKP) east of 132 degrees east longitude due to the previously discussed hazards.

Consequently, the FAA expects the costs of this rule to be minimal and these minimal costs to be exceeded by the benefits of avoided risks of deaths, injuries, and property damage that could result from a U.S. operator's aircraft being shot down (or otherwise damaged).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the effect of this final rule and determined that its purpose is to protect the safety of U.S. civil aviation from hazards to their operations in the Pyongyang FIR (ZKKP), a location outside the U.S. Therefore, the rule is in compliance with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to this regulation.

While the FAA's flight prohibition does not apply to foreign air carriers, DOT codeshare authorizations prohibit foreign air carriers from carrying a U.S. codeshare partner's code on a flight segment that operates in airspace for which the FAA has issued a flight prohibition. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised/directed by their civil aviation authorities to avoid, airspace for which the FAA has issued a flight prohibition.

G. Environmental Analysis

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4, 1979), and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. The FAA has determined that this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114, because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 8–6(c), FAA has prepared a memorandum for the record stating the reason(s) for this determination; this memorandum has been placed in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, Feb. 3, 2017) because it is issued with respect to a national security function of the United States.

IX. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained from the internet by—

- Searching the Federal Document Management System (FDMS) Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's web page at *http://www.fdsys.gov.*

Copies may also be obtained by sending a request (identified by amendment or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

Except for classified material, all documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the Federal Document Management System Portal referenced previously.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, North Korea.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

Special Federal Aviation Regulation No. 79 [Removed]

■ 2. In part 91, remove Special Federal Aviation Regulation No. 79.

■ 3. Add § 91.1615 to subpart M to read as follows:

§ 91.1615 Special Federal Aviation Regulation No. 79—Prohibition Against Certain Flights in the Pyongyang Flight Information Region (FIR) (ZKKP).

(a) *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations in the Pyongyang Flight Information Region (FIR) (ZKKP).

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in the Pyongyang Flight Information Region (FIR) (ZKKP), provided that such flight operations are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. government (or under a subcontract between the prime contractor of the department, agency, or instrumentality and the person described in paragraph (a) of this section) with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR part 119, 121, 125, or 135, each person who

deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This SFAR will remain in effect until September 18, 2020. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on September 4, 2018.

Daniel K. Elwell,

Acting Administrator.

[FR Doc. 2018–20173 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 93

[Docket No.: FAA–2006–25755]

Operating Limitations at New York Laguardia Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension to order.

SUMMARY: This action extends the Order Limiting Operations at New York LaGuardia Airport (LGA) published on December 27, 2006, as most recently extended May 25, 2016. The Order remains effective until October 24, 2020.

DATES: This action is effective on September 18, 2018.

ADDRESSES: Requests may be submitted by mail to the Slot Administration Office, System Operations Services, AJR–0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: For questions concerning this Order contact: Bonnie C. Dragotto, Regulations Division, FAA Office of the Chief Counsel, AGC–240, Room 916N, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–3808; email *Bonnie.Dragotto@faa.gov*.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You may obtain an electronic copy using the internet by:

(1) Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

(2) Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies/;* or

(3) Accessing the Government Printing Office's web page at *http://www.gpoaccess.gov/fr/index.html.*

You also may obtain a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Background

The FAA has historically limited the number of arrivals and departures at LGA during peak demand periods through the implementation of the High Density Rule (HDR), to address constraints based on LGA's limited runway capacity.[1] By statute enacted in April 2000, the HDR's applicability to LGA operations terminated as of January 1, 2007.[2]

The FAA issued an Order on December 27, 2006, adopting temporary limits pending the completion of rulemaking to address long term limits and related policies.[3] This Order was amended on November 8, 2007, and August 19, 2008.[4] The FAA extended the December 27, 2006, Order placing temporary limits on operations at LGA, as amended, on October 7, 2009, April 4, 2011, May 14, 2013, March 27, 2014, and May 25, 2016.[5]

Under the Order for LGA, as amended, the FAA (1) maintains the current hourly limits on scheduled and unscheduled operations at LGA during the peak period; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs) with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) provides for a lottery to reallocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order.

The reasons for issuing the Order have not changed appreciably since it was implemented. Runway capacity at LGA remains limited, while demand for access to LGA remains high. The average weekday hourly flights are generally scheduled to a level consistent with the limits under this Order. The FAA has reviewed the on-time and other performance metrics in the peak May to August 2017 and 2018 months and found continuing improvements relative to the same period in 2008.[6] However, the FAA has determined that the operational limitations imposed by this Order remain necessary. Without the operational limitations imposed by this Order, the FAA expects severe congestion-related delays due to the anticipated demand of new operations and the retiming of existing flights into more desirable hours. The FAA, in coordination with the Office of the Secretary of Transportation (OST), will continue to consider potential rulemaking in the future to codify the slot management policies at LGA, and also at John F. Kennedy International Airport (JFK).[7]

Current Issues

The FAA has received specific proposals for policy changes that would necessitate amending the LGA and JFK Orders. For example, several carriers have requested a simplified process for the administrative management of temporary slot transfers, whereby the marketing and operating carriers would not be required to formally transfer slots for operation by carriers under common marketing control and whereby the slot holder could choose whether the holder or the operator would be responsible for reporting slot usage to the FAA. The FAA is considering proposing this and other potential changes in a future action on the LGA and JFK Orders.

However, the Orders expire at the end of the current summer scheduling season and carriers are planning winter schedules. There is insufficient time to publish for comment proposed policy changes, adjudicate comments, and issue a final Order before the Orders expire. The FAA has therefore determined to proceed with an extension of the Orders, without policy changes, to meet current needs and allow time to further develop any proposed changes to the Orders. Accordingly, the FAA is extending the expiration date of this Order until October 24, 2020. This expiration date coincides with the extended expiration date for the Order limiting scheduled

[1] 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high density traffic airports in 14 CFR part 93, subpart K. The HDR required carriers to hold a reservation, which came to be known as a ''slot,'' for each takeoff or landing under instrument flight rules at the high density traffic airports.

[2] Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law 106–181 (Apr. 5, 2000), 49 U.S.C. 41715(a)(2).

[3] 71 FR 77854.

[4] 72 FR 63224; 73 FR 48428.

[5] 74 FR 51653; 76 FR 18616, amended by 77 FR 30585 (May 23, 2012); 78 FR 28278; 79 FR 17222; and, 81 FR 33126.

[6] Docket No. FAA–2006–25755 includes a copy of the MITRE analysis completed for the FAA.

[7] Operating Limitations at John F. Kennedy International Airport. 73 FR 3510 (Jan. 18, 2008), as amended.

operations at JFK, as also published in today's **Federal Register**. This extension of the LGA Order includes minimal changes for clarification purposes only, including the removal of obsolete references to rulemaking in paragraph A7. In addition, the description of unscheduled operations in paragraph B3 and footnote 12 has been revised to provide greater clarity of existing policy.

The FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest, as carriers have begun planning schedules for the winter 2018/2019 season and no significant policy changes are included in this action. For these reasons, the FAA also finds that it is impracticable and contrary to the public interest to delay the effective date of this action under 5 U.S.C. 553(d).

The Amended Order

The Order, as amended, is recited below in its entirety:

A. Scheduled Operations

With respect to scheduled operations at LaGuardia:

1. The Order governs scheduled arrivals and departures at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday. Seventy-one (71) Operating Authorizations are available per hour and will be assigned by the FAA on a 30-minute basis. The FAA will permit additional, existing operations above this threshold; however, the FAA will retire Operating Authorizations that are surrendered to the FAA, withdrawn for non-use, or unassigned during each affected hour until the number of Operating Authorizations in that hour reaches seventy-one (71).

2. The Order takes effect on January 1, 2007, and will expire on October 24, 2020.

3. The FAA will assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority under the High Density Rule of FAA slot exemption rules as of January 1, 2007; to the primary marketing air carrier in the case of AIR–21 small hub/non-hub airport slot exemptions; or to the air carrier operating the flights as of January 1, 2007, in the case of a slot held by a non carrier. The FAA will not assign operating authority under the Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority under 14 CFR part 121, 129 or 135. The Chief Counsel of the FAA will be the final decision maker regarding the initial assignment of Operating Authorizations.

4. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

5. An air carrier may lease or trade an Operating Authorization to another carrier for any consideration, not to exceed the duration of the Order. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267–7277 or email *7-AWA-Slotadmin@faa.gov,* and must come from a designated representative of each carrier. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. However, the FAA will approve transfers between carriers under the same marketing control up to 5 business days after the actual operation. This post-transfer approval is limited to accommodate operational disruptions that occur on the same day of the scheduled operation.

6. Each air carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations actually operated for each day of the two-month reporting period within 14 days after the last day of the two-month reporting period beginning January 1 and every two months thereafter. Any Operating Authorization not used at least 80 percent of the time over a two-month period will be withdrawn by the FAA except:

A. The FAA will treat as used any Operating Authorization held by an air carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

B. The FAA will treat as used any Operating Authorization obtained by an air carrier through a lottery under paragraph 7 for the first 120 days after allocation in the lottery.

C. The Administrator of the FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the air carrier and which affects carrier operations for a period of five consecutive days or more.

7. In the event that Operating Authorizations are withdrawn for nonuse, surrendered to the FAA or are unassigned, the FAA will determine whether any of the available Operating Authorizations should be reallocated. If so, the FAA will conduct a lottery using the provisions specified under 14 CFR 93.225. The FAA may retime an Operating Authorization prior to reallocation in order to address operational needs.

8. If the FAA determines that a reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the air carrier from which it was taken, provided that the air carrier continues to operate scheduled service at LaGuardia.

B. Unscheduled Operations [8]

With respect to unscheduled flight operations at LaGuardia, the FAA adopts the following:

1. The Order applies to all operators of unscheduled flights, except helicopter operations, at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The Order takes effect on January 1, 2007, and will expire on October 24, 2020.

3. No person can operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operation, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO), or for unscheduled visual flight rule operations, received clearance from ATC. Additional information on procedures for obtaining a reservation is available via the internet at *http://www.fly.faa.gov/ecvrs.*

4. Three (3) reservations are available per hour for unscheduled operations at

[8] Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, irregular charter, ferry, and positioning flights. Regularly conducted commercial flights require an Operating Authorization and may not use unscheduled operation reservations. Helicopter operations are excluded from the reservation requirement. Unscheduled flights operating under visual flight rules (VFR) may be accommodated by the local air traffic control facilities and are not included in the hourly limits.

LaGuardia. The ARO will assign reservations on a 30-minute basis.

5. The ARO receives and processes all reservation requests. Reservations are assigned on a ''first-come, first-served'' basis, determined as of the time that the ARO receives the request. A cancellation of any reservation that will not be used as assigned is required.

6. Filing a request for a reservation does not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan can be filed. The IFR flight plan must include the reservation number in the ''remarks'' section.

7. Air Traffic Control will accommodate declared emergencies without regard to reservations. Nonemergency flights in direct support of national security, law enforcement, military aircraft operations, or public aircraft operations will be accommodated above the reservation limits with the prior approval of the Vice President, System Operations Services, Air Traffic Organization. Procedures for obtaining the appropriate reservation for such flights are available via the internet at *http://www.fly.faa.gov/ecvrs.*

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA can accommodate additional reservations over a specific period. Unused operating authorizations can also be temporarily made available for unscheduled operations. Reservations for additional operations are obtained through the ARO.

9. Reservations cannot be bought, sold, or leased.

C. Enforcement

The FAA may enforce the Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any carrier from violating the terms of the Order.

Issued in Washington, DC on September 11, 2018.

Jeffrey Planty,

Deputy Vice President, System Operations Services.

[FR Doc. 2018–20226 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

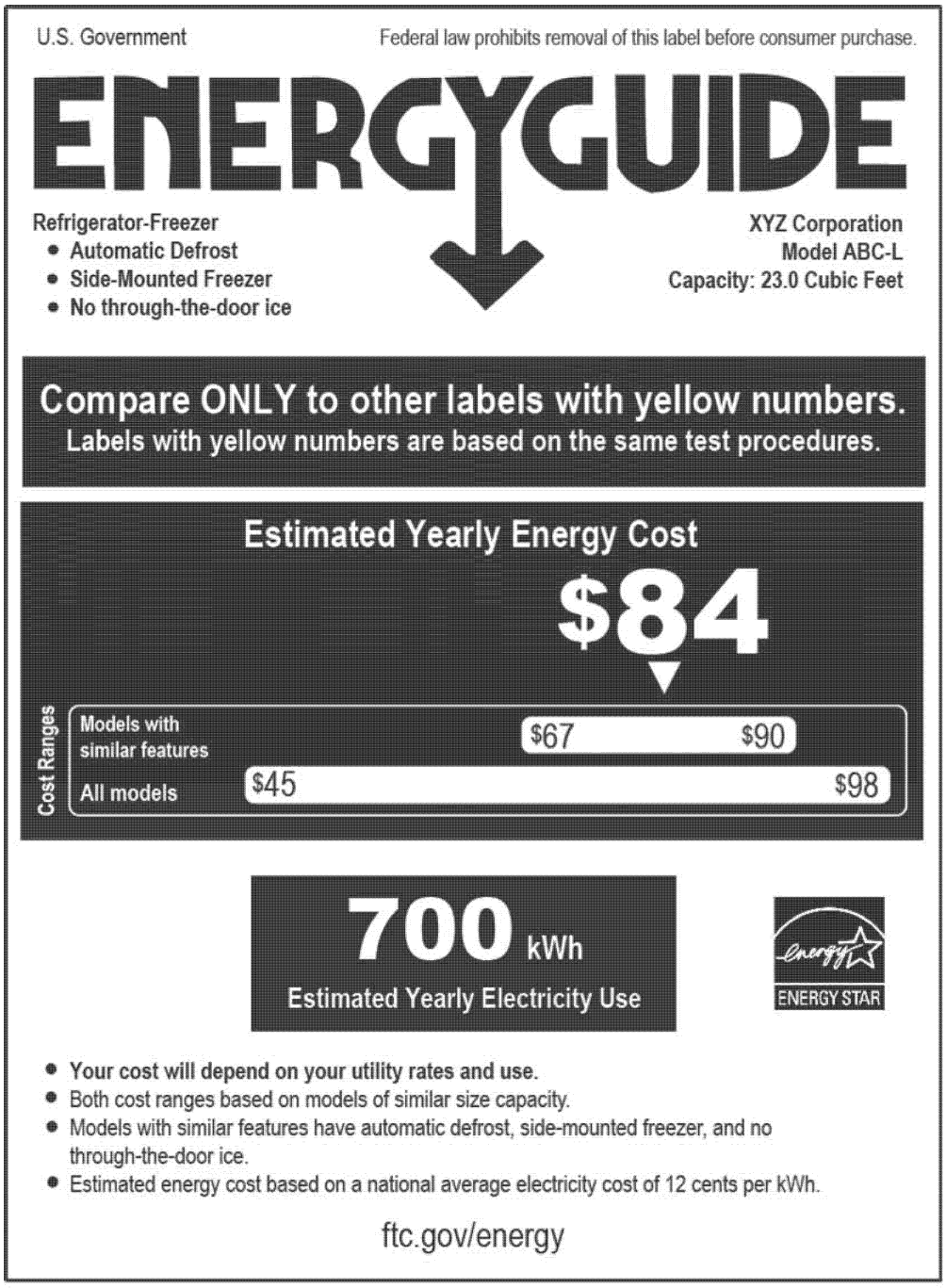
16 CFR Part 305

Energy Labeling Rule

CFR Correction

■ In Title 16 of the Code of Federal Regulations, Parts 0 to 999, revised as of January 1, 2018, on page 330, in Appendix L to Part 305, ''Sample Label 1—Refrigerator-Freezer'' is inserted before ''Sample Label 3—Dishwasher'' to read as follows:

BILLING CODE 1301–00–D



Sample Label 1 – Refrigerator-Freezer

[FR Doc. 2018–20328 Filed 9–17–18; 8:45 am]
BILLING CODE 1301–00–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. FDA–2017–C–0935]

Listing of Color Additives Subject to Certification; D&C Black No. 4; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA or we) is confirming the effective date of July 10, 2018, for the final rule that appeared in the **Federal Register** of June 7, 2018, and that amended the color additive regulations to provide for the safe use of D&C Black No. 4 for coloring ultra-high molecular weight polyethylene (UHMWPE) non-absorbable sutures for use in general surgery.

DATES: Effective date of final rule published in the **Federal Register** of June 7, 2018 (83 FR 26356) confirmed: July 10, 2018.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joseph M. Thomas, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 301–796–9465.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 7, 2018 (83 FR 26356), we amended the color additive regulations to add § 74.3054, ''D&C Black No. 4,'' (21 CFR 74.3054) to provide for the safe use of D&C Black No. 4 for coloring UHMWPE non-absorbable sutures for use in general surgery.

We gave interested persons until July 9, 2018, to file objections or requests for a hearing. We received no objections or requests for a hearing on the final rule. Therefore, we find that the effective date of the final rule that published in the **Federal Register** of June 7, 2018, should be confirmed.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs, we are giving notice that no objections or requests for a hearing were filed in response to the June 7, 2018, final rule. Accordingly, the amendments issued in the final rule became effective July 10, 2018.

Dated: September 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–20288 Filed 9–17–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 300

[Docket ID: DOD–2017–OS–0029]

RIN 0790–AJ71

Defense Logistics Agency Freedom of Information Act Program

AGENCY: Defense Logistics Agency, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation concerning the Defense Logistics Agency Freedom of Information Act (FOIA) program. On February 6, 2018, the DoD published a FOIA program final rule as a result of the FOIA Improvement Act of 2016. When the DoD FOIA program rule was revised, it included DoD component information and removed the requirement for component supplementary rules. The DoD now has one DoD-level rule for the FOIA program that contains all the codified information required for the Department. Therefore, this part can be removed from the CFR.

DATES: This rule is effective on September 18, 2018.

FOR FURTHER INFORMATION CONTACT: Lewis Oleinick at 571–767–6194.

SUPPLEMENTARY INFORMATION: It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures.

DLA internal guidance concerning the implementation of the FOIA within DLA will be published in DLA Instruction (DLAI) 5400.11.

This rule is one of 14 separate DoD FOIA rules. With the finalization of the DoD-level FOIA rule at 32 CFR part 286, the Department is eliminating the need for this separate FOIA rule and reducing costs to the public as explained in the preamble of the DoD-level FOIA rule published at 83 FR 5196–5197.

This rule is not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review''; therefore, E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs'' does not apply.

List of Subjects in 32 CFR Part 300

Freedom of information.

PART 300—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 300 is removed.

Dated: September 13, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–20228 Filed 9–17–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2018–0725]

Special Local Regulations, Marine Events Within the Fifth Coast Guard District; Correction

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** of August 13, 2018, concerning a notice of enforcement of regulations of special local regulations for the Baltimore Air Show from October 4, 2018, through October 7, 2018. The document contained incorrect times for the enforcement periods.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Houck, 410–576–2674.

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** of August 13, 2018, in FR Doc. 2018–17282:

1. On page 39879, in the first column, correct the **DATES** caption to read:

DATES: The regulations in 33 CFR 100.501 will be enforced for the Baltimore Air Show regulated area listed in item b.23 in the table to § 100.501 from 2:45 p.m. through 4:30 p.m. on October 4, 2018, from 10:30 a.m. through 5 p.m. on October 5, 2018,

from 11:30 a.m. through 5 p.m. on October 6, 2018, and from 11:30 a.m. through 5 p.m. on October 7, 2018.

2. On page 39879, in the second column, correct lines 12 through 16 to read:

Regulated area from 2:45 p.m. through 4:30 p.m. on October 4, 2018, from 10:30 a.m. through 5 p.m. on October 5, 2018, from 11:30 a.m. through 5 p.m. on October 6, 2018, and from 11:30 a.m. through 5.

Dated: September 12, 2018.

Joseph B. Loring,

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

[FR Doc. 2018–20206 Filed 9–17–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Part 222

RIN 1810–AB24

[Docket ID ED–2015–OESE–0109]

Impact Aid Program; Corrections

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final regulations; correcting amendments.

SUMMARY: The Department of Education (Department) published final regulations in the **Federal Register** on September 20, 2016 to amend the Impact Aid Program (IAP) regulations issued under title VII of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act. The amendatory instructions at the end of the 2016 final rule inadvertently removed some definitions from these regulations. This document corrects the regulations by adding those definitions back into the Code of Federal Regulations (CFR).

DATES: These regulations are effective September 18, 2018.

FOR FURTHER INFORMATION CONTACT: Kristen Walls, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C103, Washington, DC 20202. Telephone: (202) 260–3858. Email: *Kristen.walls@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On September 20, 2016, the Secretary published final regulations for this program in the **Federal Register** (81 FR 64728). The amendatory instructions for § 222.161 resulted in some of the definitions from § 222.161 being mistakenly removed. It was not our intention to remove these definitions through that rulemaking and the preamble to the proposed or final rule never indicated that we were removing these definitions. We are taking this action to correct the regulations. The definitions that were removed and that we are adding back in their proper place are: Equalize expenditures, local tax revenues, local tax revenues covered under a State equalization program, revenue, State aid, and total local tax.

Waiver of Rulemaking

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B)). There is good cause to waive rulemaking here as unnecessary.

Rulemaking is ''unnecessary'' in those situations in which ''the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' *Utility Solid Waste Activities Group v. EPA,* 236 F.3d 749, 755 (D.C. Cir. 2001), *quoting* U.S. Department of Justice, *Attorney General's Manual on the Administrative Procedure Act* 31 (1947) and *South Carolina* v. *Block,* 558 F. Supp. 1004, 1016 (D.S.C. 1983).

These regulations merely restore the regulatory definitions as they appeared in the CFR prior to their unintended removal in connection with the 2016 Impact Aid final rule. Because the definitions were originally adopted through notice-and-comment rulemaking and their removal was in error, rulemaking to restore the definitions is unnecessary.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Number 84.041 Impact Aid)

List of Subjects in 34 CFR Part 222

Administrative practice and procedure, Education of individuals with disabilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education, Reporting and recordkeeping requirements, School construction.

Dated: September 13, 2018.

Frank Brogan,

Assistant Secretary for Elementary and Secondary Education.

Accordingly, part 222 of title 34 of the Code of Federal Regulations is corrected by making the following amendments:

PART 222—IMPACT AID PROGRAMS

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

■ 2. Section 222.161 is amended by revising paragraph (c) to read as follows:

§ 222.161 How is State aid treated under section 7009 of the Act?

* * * * *

(c) *Definitions.* The following definitions apply to this subpart:

Current expenditures is defined in section 7013(4) of the Act. Additionally, for the purposes of this section it does not include expenditures of funds received by the agency under sections 7002 and 7003(b) (including hold harmless payments calculated under section 7003(e)) that are not taken into consideration under the State aid program and exceed the proportion of those funds that the State would be allowed to take into consideration under § 222.162.

Equalize expenditures means to meet the standard set forth in § 222.162.

Local tax revenues means compulsory charges levied by an LEA or by an intermediate school district or other local governmental entity on behalf of

an LEA for current expenditures for educational services. ''Local tax revenues'' include the proceeds of ad valorem taxes, sales and use taxes, income taxes and other taxes. Where a State funding formula requires a local contribution equivalent to a specified mill tax levy on taxable real or personal property or both, ''local tax revenues'' include any revenues recognized by the State as satisfying that local contribution requirement.

Local tax revenues covered under a State equalization program means ''local tax revenues'' as defined in paragraph (c) of this section contributed to or taken into consideration in a State aid program subject to a determination under this subpart, but excluding all revenues from State and Federal sources.

Revenue means an addition to assets that does not increase any liability, does not represent the recovery of an expenditure, does not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets, and does not represent a contribution of fund capital in food service or pupil activity funds. Furthermore, the term ''revenue'' includes only revenue for current expenditures.

State aid means any contribution, no repayment for which is expected, made by a State to or on behalf of LEAs within the State for current expenditures for the provision of free public education.

Total local tax revenues means all ''local tax revenues'' as defined in paragraph (c) of this section, including tax revenues for education programs for children needing special services, vocational education, transportation, and the like during the period in question but excluding all revenues from State and Federal sources.

* * * * *

[FR Doc. 2018–20221 Filed 9–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 2

[Docket ID: NPS–2018–0003; NPS–WASO–25595; PPWOVPADU0/PPMPRLE1Y.Y00000]

RIN 1024–AE44

Transporting Bows and Crossbows Across National Park System Units

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service allows individuals to carry or possess an unloaded bow or crossbow within the National Park System when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible.

DATES: This rule is effective on October 18, 2018.

ADDRESSES: The comments received on the proposed rule and an economic analysis are available on *www.regulations.gov* in Docket ID: NPS–2018–0003.

FOR FURTHER INFORMATION CONTACT: Jay Calhoun, NPS Regulations Program, 1849 C Street NW, Washington, DC 20240. Phone: (202) 513–7112. Email: *waso_regulations@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

National Park Service (NPS) regulations at 36 CFR 2.4(b)(3) allow bows and crossbows that are not ready for immediate use to be possessed by individuals in NPS-administered areas within a mechanical mode of conveyance. This provides regulatory relief for transient individuals passing through park areas in vehicles and other forms of mechanical transport. This rule extends this relief to individuals transporting unloaded bows and crossbows on foot or horseback when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible. Possessing bows and crossbows in this manner is subject to applicable state laws and is not allowed if the individual is otherwise prohibited by law from possessing a bow or crossbow.

This rule recognizes and addresses the difficulties faced by some individuals attempting to access private property or other lands and waters adjacent to NPS-administered areas. In some cases, the use of mechanical transport to access these adjacent lands and waters is impracticable. As a result, individuals must traverse NPS areas on foot or horseback to reach these lands and waters but under existing regulations cannot do so with bows and crossbows without first obtaining a permit from the park Superintendent. This rule removes the permit requirement in order to carry or possess bows or crossbows for this purpose. This rule does not change the regulations in 36 CFR part 2 governing the use of a bow or crossbow in park areas.

Summary of and Responses to Public Comments on the Proposed Rule

The NPS published the proposed rule on March 2, 2018 (83 FR 8959), with request for public comment through the Federal eRulemaking portal at *www.regulations.gov,* or by mail or hand delivery. The 60-day comment period ended on May 1, 2018. The NPS received 40 comments, 34 of which supported the proposed rule and did not request any changes. Other comments were not in favor of the proposed rule or were in favor but suggested changes. A summary of these comments and NPS responses is provided below. After taking the public comments into consideration, the NPS has not made any changes in the final rule.

1. Comment. Several commenters expressed concern that the rule will cause individuals to use bows and crossbows illegally, either within the National Park System or on adjacent lands where hunting is not allowed. These commenters are concerned that this illegal activity will adversely impact threatened or endangered wildlife.

NPS Response: This rule does not change NPS regulations governing the use of weapons, including bows and crossbows, within the National Park System. Illegal hunting will remain illegal in the same manner that it was before this rule. Unfortunately illegal hunting and trapping does occur. NPS law enforcement staff work alone and with state and local partners to identify illegal activity and prosecute offenders according to the law. The NPS does not believe that individuals who are willing to hunt and trap illegally will be emboldened by this rule. These individuals are unlikely to have requested a permit from the NPS prior to bringing bows and crossbows into NPS areas in order to hunt or trap illegally. Existing NPS regulations allow individuals to travel through NPS lands with bows and crossbows in a motor vehicle. The NPS does not believe that a person who is willing to engage in illegal hunting would be deterred from doing so by existing regulation, which requires motorized transport of his or her bow or crossbow, especially when NPS regulations allow individuals to carry firearms within the National Park System outside of a motor vehicle without needing to obtain a permit.

2. Comment. Several commenters were concerned that this rule would result in individuals leaving bows, crossbows, and related equipment, such as arrows and quivers, behind on NPS lands.

NPS Response: The NPS has no reason to believe that individuals would intentionally leave this type of equipment behind in NPS areas. NPS regulations at 36 CFR 2.22 prohibit abandoning property.

3. Comment. One commenter supported removing the permit requirement, but suggested that the NPS also remove the requirement that an individual must be accessing otherwise ''inaccessible'' lands or waters. This commenter also suggested that the NPS change the requirement that ''other means of access are otherwise impracticable or impossible'' to ''impracticable or less convenient.''

NPS Response: The language limiting possession to situations when individuals are ''accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible'' has been part of NPS regulations concerning permits to carry weapons since 1983 (48 FR 30282, June 30, 1983). This language helps ensure that individuals transport bows and crossbows through NPS lands for legitimate purposes, such as accessing private property or other public lands that cannot be accessed another way—either through the National Park System in a motor vehicle or through a non-NPS area.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is an E.O. 13771 deregulatory action because it imposes less than zero costs by removing a regulatory permit requirement that imposes unnecessary costs upon individuals seeking to safely access remote lands and waters. The costs associated with the requirement to obtain a permit before transporting a bow or crossbow across NPS lands or waters outside of a mechanical conveyance are eliminated.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Benefit-Cost and Regulatory Flexibility Analyses: Cost-Benefit and Regulatory Flexibility Analyses: Transporting Bows and Crossbows Across National Park System Units'' that is available to the public on *regulations.gov* in Docket ID: NPS–2018–0003.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A

detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the NPS intends to categorically exclude this rule under 516 DM 12.5(A)(10). This rule modifies existing NPS regulations in a manner that does not increase public use or introduce non-compatible uses to the extent of compromising the nature and character of the National Park System or causing physical damage to it. The rule does not conflict with adjacent ownerships or lands uses, or cause a nuisance to adjacent owners or occupants. We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects in not required.

List of Subjects in 36 CFR Part 2

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 2 as set forth below:

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 2. Amend § 2.4 as follows:
■ a. Redesignate paragraph (b)(3) as paragraph (b)(3)(i).
■ b. Add a new paragraph (b)(3)(ii).
■ c. Revise paragraph (e) introductory text.

The addition and revision read as follows:

§ 2.4 Weapons, traps and nets.

* * * * *

(b) * * *

(3) * * *

(ii) An individual may carry or possess an unloaded bow or crossbow when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible if:

(A) The individual is not otherwise prohibited by law from possessing the bow or crossbow; and

(B) The possession of the bow or crossbow is in compliance with the law of the State in which the park area is located.

* * * * *

(e) The superintendent may issue a permit to carry or possess a weapon that is not otherwise authorized, a trap, or a net under the following circumstances:

* * * * *

Andrea Travnicek,

Principal Deputy Assistant Secretary—Water and Science, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2018–20093 Filed 9–17–18; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2018–0505; FRL–9983–95—Region 10]

Air Plan Approval; Oregon; Interstate Transport Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On October 20, 2015, the State of Oregon made a submission to the Environmental Protection Agency (EPA) to address these requirements. The EPA is approving the submission as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS) in any other state.

DATES: This final rule is effective October 18, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2018–0505. 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 the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and is publicly available only in hard copy form. Publicly available docket materials are available at *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: Jeff Hunt at (206) 553–0256, or *hunt.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

I. Background Information

On July 19, 2018, the EPA proposed to approve Oregon as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state (83 FR 34094). An explanation of the Clean Air Act requirements, a detailed analysis of the submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for the proposal ended August 20, 2018.

II. Response to Comments

We received one comment in support of the proposed rulemaking and several anonymous comments unrelated to Oregon's submission. After reviewing the anonymous comments, we have determined that the comments are outside the scope of our proposed action and fail to identify any material issue necessitating a response. For more information, please see our memorandum included in the docket for this action.

III. Final Action

The EPA is approving Oregon's October 20, 2015, submission certifying that the SIP is sufficient to meet the interstate transport requirements of Clean Air Act section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth in the proposed rulemaking for this action.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air 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 Clean Air 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);

- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because actions such as 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 this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land and is also not approved to apply 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 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 November 19, 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.

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

Dated: September 5, 2018.

Chris Hladick,

Regional Administrator, Region 10.

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 MM—Oregon

■ 2. Section 52.1992 is added to read as follows:

§ 52.1992 Interstate Transport for the 2012 $PM_{2.5}$ NAAQS.

(a) The EPA approves Oregon's SIP revision submitted on October 20, 2015, addressing the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS.

(b) [Reserved]

[FR Doc. 2018–20172 Filed 9–17–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0608; FRL–9983–67]

Beauveria bassiana Strain PPRI 5339; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Beauveria bassiana* strain PPRI 5339 in or on all food commodities when this pesticide chemical is used in accordance with label directions and good agricultural practices. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Beauveria bassiana* strain PPRI 5339 in or on all food commodities under FFDCA.

DATES: This regulation is effective September 18, 2018. Objections and requests for hearings must be received on or before November 19, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0608, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0608 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 19, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0608, by one of the following methods:

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

II. Background

In the **Federal Register** of December 20, 2016 (81 FR 92758) (FRL–9956–04), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F8485) by BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Beauveria bassiana* strain PPRI 5339 in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner BASF Corporation and available in the docket via *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Beauveria bassiana* strain PPRI 5339 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for *Beauveria bassiana* strain PPRI 5339'' (Safety Determination). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that *Beauveria bassiana* strain PPRI 5339 is not toxic, pathogenic, or infective through most of the routes of exposure, except through inhalation where it is highly toxic by itself (100% active ingredient). When *Beauveria bassiana* strain PPRI 5339 is combined with an oil and its concentration is decreased (8% active ingredient), however, data demonstrated it is not toxic through inhalation. Although there may be some exposure to residues when *Beauveria bassiana* strain PPRI 5339 is used on food commodities in accordance with label directions and good agricultural practices, there is a lack of concern due to the lack of toxicity from dietary exposure to *Beauveria bassiana* strain PPRI 5339. There are no residential uses currently associated with *Beauveria bassiana* strain PPRI 5339. In the event residential uses may be sought in the future, those exposures would not be aggregated with the dietary exposure due to the difference in toxic effects. Moreover, EPA intends to mitigate the potential for inhalation risk through terms on any associated registration(s). EPA also determined in the Safety Determination that retention of the Food Quality Protection Act (FQPA) safety factor was not necessary as part of the qualitative assessment conducted for *Beauveria bassiana* strain PPRI 5339.

Based upon its evaluation in the Safety Determination, EPA concludes that there is a reasonable certainty that

no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Beauveria bassiana* strain PPRI 5339. Therefore, an exemption from the requirement of a tolerance is established for residues of *Beauveria bassiana* strain PPRI 5339 in or on all food commodities when this pesticide chemical is used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IV. Statutory and Executive Order Reviews

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

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 7, 2018.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1362 to subpart D to read as follows:

§ 180.1362 *Beauveria bassiana* strain PPRI 5339; exemption from the requirement of a tolerance.

Residues of Beauveria bassiana strain PPRI 5339 are exempt from the requirement of a tolerance in or on all food commodities when this pesticide chemical is used in accordance with label directions and good agricultural practices.

[FR Doc. 2018–20285 Filed 9–17–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9983–84—Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List: Partial Deletion of the Beloit Corporation Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On July 16, 2018, the Environmental Protection Agency (EPA) published a Notice of Intent for Partial Deletion and a direct final Notice of Partial Deletion for the Research Center Property (RCP) of the Beloit Superfund Site (Beloit Site) from the National Priorities List (NPL). EPA is withdrawing the direct final Notice of Partial Deletion because EPA did not provide timely notice of the publication of this rulemaking through publication of an advertisement in a local newspaper as required by EPA policy.

DATES: This withdrawal of the direct final action 83 FR 32798 (July 16, 2018) is effective as of September 14, 2018.

FOR FURTHER INFORMATION CONTACT: Randolph Cano, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5 (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6036, or via email at *cano.randolph@epa.gov*.

SUPPLEMENTARY INFORMATION: On July 16, 2018, the EPA published a Notice of Intent for Partial Deletion (83 FR 32825) and a direct final Notice of Partial Deletion (83 FR 32798) for the Research Center Property (RCP) of the Beloit Superfund Site (Beloit Site) from the National Priorities List (NPL). After consideration of the comments received, if appropriate, EPA will publish a Notice of Partial Deletion in the **Federal Register** based on the parallel Notice of Intent for Partial Deletion and place a

copy of the final partial deletion package, including a Responsiveness Summary, if prepared, in docket EPA–HQ–SFUND–1990–0011, accessed through the *http://www.regulations.gov* website and in the Beloit Site repositories.

Information Repositories: Comprehensive information on the Beloit Site, as well as the comments that we received during the comment period, are available in docket [EPA–HQ–SFUND–1990–0011], accessed through the *http://www.regulations.gov* website. Although listed in the docket index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

U.S. Environmental Protection Agency, Region 5, Superfund Records Center, 77 West Jackson Boulevard, 7th Floor South, Chicago, IL 60604, Phone: (312) 886–0900, Hours: Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

Talcott Free Library, 101 East Main Street, Rockton, IL 61072, Phone: (815) 624–7511, Hours: Monday, Tuesday and Thursday, 9 a.m. to 8 p.m., Wednesday and Friday 9 a.m. to 5:30 p.m., and Saturday 9 a.m. to 3 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 7, 2018.

James Payne,

Acting Regional Administrator, Region 5.

■ Accordingly, the amendment to Table 1 of Appendix B to 40 CFR part 300 to add a ''P'' in the Notes column in the entry ''IL'', ''Beloit Corp.'', ''Rockton'', published on July 16, 2018 (83 FR 32798), is withdrawn as of September 14, 2018.

[FR Doc. 2018–20163 Filed 9–14–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–8547]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 212–3966.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action

and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
South Carolina:				
Camden, City of, Kershaw County	450117	April 2, 1975, Emerg; November 2, 1983, Reg; September 28, 2018, Susp.	September 28, 2018	September 28, 2018.
Kershaw County, Unincorporated Areas	450115	June 10, 1975, Emerg; November 2, 1983, Reg; September 28, 2018, Susp.	.....do*	Do.
Lancaster County, Unincorporated Areas	450120	July 3, 1975, Emerg; January 6, 1983, Reg; September 28, 2018, Susp.	.....do	Do.
Sumter, City of, Sumter County	450184	December 11, 1973, Emerg; March 1, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Sumter County, Unincorporated Areas	450182	September 17, 1979, Emerg; January 5, 1989, Reg; September 28, 2018, Susp.	.....do	Do.
Region V				
Wisconsin:				
Marathon County, Unincorporated Areas	550245	April 9, 1971, Emerg; February 1, 1979, Reg; September 28, 2018, Susp.	.....do	Do.
Rothschild, Village of, Marathon County	555577	April 2, 1971, Emerg; May 11, 1973, Reg; September 28, 2018, Susp.	.....do	Do.
Wausau, City of, Marathon County	550258	April 2, 1971, Emerg; January 5, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Weston, Village of, Marathon County	550323	N/A, Emerg; April 10, 2008, Reg; September 28, 2018, Susp.	.....do	Do.
Region X				
Oregon:				
Bay City, City of, Tillamook County	410197	June 11, 1974, Emerg; August 1, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Garibaldi, City of, Tillamook County	410280	November 13, 1975, Emerg; April 17, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Manzanita, City of, Tillamook County	410199	November 8, 1974, Emerg; May 1, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Nehalem, City of, Tillamook County	410200	April 17, 1973, Emerg; April 3, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Rockaway Beach, City of, Tillamook County	410201	November 18, 1974, Emerg; September 29, 1978, Reg; September 28, 2018, Susp.	September 28, 2018	September 28, 2018.
Tillamook, City of, Tillamook County	410202	March 30, 1973, Emerg; May 1, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Tillamook County, Unincorporated Areas	410196	December 29, 1972, Emerg; August 1, 1978, Reg; September 28, 2018, Susp.	.....do	Do.
Wheeler, City of, Tillamook County	410203	March 27, 1974, Emerg; November 16, 1977, Reg; September 28, 2018, Susp.	.....do	Do.

*.....do and Do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: September 6, 2018.

Katherine B. Fox,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2018–20257 Filed 9–17–18; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 18–175; FCC 18–126]

Assessment and Collection of Regulatory Fees for Fiscal Year 2018

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its Schedule of Regulatory Fees to recover an amount of $322,035,000 that Congress has required the Commission to collect for fiscal year 2018. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and 9(b)(3), respectively, for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

DATES: Effective September 18, 2018, except for the amendment to § 1.1940, which is effective October 1, 2018. To avoid penalties and interest, regulatory fees should be paid by the due date of September 25, 2018.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 18–126, MD Docket No. 18–175, adopted on August 28, 2018 and released on August 29, 2018. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/FCC-17-111A1.pdf.*

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is located towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

II. Introduction

1. This Report and Order adopts a schedule of regulatory fees to assess and collect $322,035,000 in regulatory fees for fiscal year (FY) 2018, pursuant to section 9 [2] of the Communications Act of 1934, as amended, and the Commission's FY 2018 Appropriation.[3] The schedule of regulatory fees for FY 2018 adopted herein is attached in Table 4. The regulatory fees for all payors are due in September 2018.

2. Additionally, we amend our rules in accordance with the directives of the RAY BAUM'S Act regarding the collection of delinquent debts.[4] This rule change will become effective on October 1, 2018.

III. Background

3. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.[5] Regulatory fees, mandated by Congress, are collected ''to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.'' [6] Regulatory fees are to ''be derived by determining the full-time equivalent number of employees performing'' these activities, ''adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission's activities. . . . .'' [7] Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, and equipment.[8] Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,[9] entities whose regulatory fees are waived,[10] and entities providing services for which we do not assess regulatory fees.

4. Congress sets the amount of regulatory fees the Commission must collect each year in the Commission's fiscal year appropriations. Section 9(a)(2) of the Communications Act requires the Commission to collect fees sufficient to offset the amount appropriated.[11] To calculate regulatory fees, the Commission allocates the total collection target across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission's calculation of Full Time Employees (FTEs) in each regulatory fee category.[12] FTEs are classified as ''direct'' if the employee is in one of the four ''core'' bureaus; otherwise, that employee is considered an ''indirect'' FTE.[13] The

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[2] 47 U.S.C. 159. Although the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, or the RAY BAUM'S Act of 2018, amended sections 8 and 9 and added section 9A to the Communications Act, those provisions do not become effective until October 1, 2018. Consolidated Appropriations Act, 2018, Public Law Number 115–141, 132 Stat. 1084, Division P—RAY BAUM's Act of 2018, Title I, 103 (2018).

[3] Consolidated Appropriations Act, 2018, Division E—Financial Services and General Government Appropriations Act, 2018, Title V—Independent Agencies, Public Law 115–141 (March 23, 2018) (FCC FY 2018 Appropriation).

[4] *See supra* note 1.

[5] 47 U.S.C. 159(b)(1)(B).

[6] 47 U.S.C. 159(a).

[7] 47 U.S.C. 159(b)(1)(A).

[8] *Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* Report and Order, 19 FCC Rcd 11662, 11666, paragraph 11 (2004) (*FY 2004 Report and Order*), 69 FR 41028 (July 7, 2004).

[9] For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h). 47 U.S.C. 159(h); 47 CFR 1.1162.

[10] 47 CFR 1.1166.

[11] 47 U.S.C. 159(a)(2).

[12] One FTE is a unit of measure equal to the work performed annually by a full-time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

[13] The core bureaus, which have the direct FTEs, are the Wireline Competition Bureau (124), Wireless Telecommunications Bureau (101), Media Bureau (135), and part of the International Bureau (24). The indirect FTEs are the employees from the following bureaus and offices: Enforcement Bureau (203), Consumer & Governmental Affairs Bureau (136), Public Safety and Homeland Security Bureau (104), part of the International Bureau (72), part of the Wireline Competition Bureau (38), Chairman and Commissioners' offices (15), Office of the

Continued

total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of indirect FTEs.[14] The Commission then allocates the total amount to be collected among the various regulatory fee categories within each of the core bureaus. Each regulatee within a fee category pays its proportionate share based on an objective measure (*e.g.,* revenues or number of subscribers).[15] These calculations are illustrated in Table 3. The sources for the unit estimates that are used in these calculations are listed in Table 5.

5. The Commission annually reviews the regulatory fee schedule, proposes changes to the schedule to reflect changes in the amount of its appropriation, and proposes increases or decreases to the schedule of regulatory fees.[16] As part of its annual review, the Commission also regularly seeks to improve the regulatory fee process.[17]

6. In the *FY 2018 Notice of Proposed Rulemaking,* the Commission proposed to collect $322,035,000 in regulatory fees for FY 2018 and sought comment on a detailed proposed fee schedule.[18] The Commission sought comment specifically on an incremental increase in the DBS regulatory fee [19] and on proposed regulatory fees for terrestrial and satellite international bearer circuits for FY 2018.[20] Additionally, the Commission sought comment on the methodology for calculating broadcast television station regulatory fees for FY 2019 [21] and whether to adopt a new regulatory fee category for small satellites for FY 2019, and if so, what the appropriate regulatory fee for small satellites should be.[22] We received 9 comments and four reply comments on the *FY 2018 NPRM.*[23]

IV. Report and Order

7. In this *FY 2018 Report and Order,* we adopt the regulatory fee schedule proposed in the *FY 2018 NPRM* for FY 2018, pursuant to section 9 of the Communications Act, to collect $322,035,000 in regulatory fees. Of this amount, we project approximately $20.3 million (6.25 percent of the total FTE allocation) in fees from the International Bureau regulatees; $84.7 million (26.3 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees; $103.99 million (32.29 percent of the total FTE allocation) in fees from the Wireline Competition Bureau regulatees; and $113.22 million (35.16 percent of the total FTE allocation) in fees from the Media Bureau regulatees. These regulatory fees are due in September 2018. The schedule of regulatory fees for FY 2018 adopted herein is attached as Table 4.

FY 2018 Adjustment: Video Distribution Provider Regulatory Fees

8. Among other activities, the Media Bureau oversees the regulation of video distribution providers like multichannel video programming distributors (MVPDs), *i.e.,* regulated companies that make available for purchase, by subscribers or customers, multiple channels of video programming. The Media Bureau relies on a common pool of FTEs to carry out its oversight of MVPDs and other video distribution providers. These responsibilities include market modifications, local-into-local, must-carry and retransmission consent disputes, program carriage and program access complaints, over-the-air reception device declaratory rulings and waivers, media rule modernization, media ownership, and proposed transactions.[24]

9. For these activities in FY 2018, the Commission must collect $62,330,000 in regulatory fees from three categories of providers: Cable TV systems, IPTV providers, and direct broadcast satellite (DBS) operators. Although the Commission decided to assess cable TV systems and IPTV providers the same for regulatory fee purposes—assessing each provider based on its subscribership—the Commission took a different approach when it began to assess Media Bureau-based regulatory fees on DBS operators. Specifically, the Commission decided to phase in the new Media Bureau-based regulatory fee for DBS, starting at 12 cents per subscriber per year.[25] At the same time, the Commission committed to updating the regulatory fee rate in future years ''as necessary for ensuring an appropriate level of regulatory parity and considering the resources dedicated to this new regulatory fee subcategory.'' [26] Accordingly, the Commission increased the regulatory fee for DBS operators to 27 cents (including a three cent moving fee) and then 38 cents (including a two cent moving fee) per subscriber per year, with the regulatory fees paid by DBS operators reducing those paid by other MVPDs.[27]

10. For FY 2018, the Commission proposed to continue the transition by increasing the DBS regulatory fee rate to 48 cents per subscriber per year, thereby leaving other MVPDs with a regulatory fee of 77 cents per subscriber per year.[28] Although a common pool of FTEs work on MVPD and related issues for DBS operators, IPTV providers, and cable TV systems, which some commenters argue justifies immediate parity in regulatory

Managing Director (149), Office of General Counsel (74), Office of the Inspector General (46), Office of Communications Business Opportunities (8), Office of Engineering and Technology (73), Office of Legislative Affairs (9), Office of Strategic Planning and Policy Analysis (15), Office of Workplace Diversity (5), Office of Media Relations (14), and Office of Administrative Law Judges (4).

[14] The Commission observed in the *FY 2013 Report and Order* that ''the high percentage of the indirect FTEs is indicative of the fact that many Commission activities and costs are not limited to a particular fee category and instead benefit the Commission as a whole.'' *See Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Report and Order, 28 FCC Rcd 12351, 12357, paragraph 17 (2013) (*FY 2013 Report and Order*), 78 FR 52433 (Aug. 23, 2013).

[15] *See Procedures for Assessment and Collection of Regulatory Fees,* Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461–62, paragraphs 8–11 (2012) (*FY 2012 NPRM*), 77 FR 29275 (May 17, 2012).

[16] 47 U.S.C. 159(b)(1)(B).

[17] In the *FY 2013 Report and Order,* the Commission adopted updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of regulatees in the fee categories. *FY 2013 Report and Order,* 28 FCC Rcd at 12354–58, paragraphs 10–20. This was recommended in a report issued by the Government Accountability Office (GAO) in 2012. *See* GAO ''Federal Communications Commission Regulatory Fee Process Needs to be Updated,'' GAO–12–686 (August 2012) (GAO Report) at 36, *http://www.gao.gov/products/GAO-12-686.* The Commission has since updated the FTE allocations annually. In addition, the Commission reallocated some FTEs from the International Bureau as indirect; combined the UHF and VHF television stations into one regulatory fee category; and added internet Protocol Television (IPTV) to the cable television regulatory fee category. *FY 2013 Report and Order,* 28 FCC Rcd at 12355–63, paragraphs 13–33.

[18] *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Notice of Proposed Rulemaking, FCC 18–65 (2018) (*FY 2018 NPRM*), 83 FR 27846 (June 14, 2018).

[19] *Id.* paragraphs 17–20.

[20] *Id.* paragraphs 22–26.

[21] *Id.* paragraphs 27–31.

[22] *Id.* paragraphs 32–33. We defer consideration of a new regulatory fee category, and the appropriate regulatory fee, for small satellites until we adopt a definition of ''small satellites'' in the pending *Small Satellite NPRM* proceeding. *See Streamlining Licensing Procedures for Small Satellites,* IB Docket No. 18–86, Notice of Proposed Rulemaking, FCC 18–44 (2018) (*Small Satellite NPRM*), 83 FR 24064 (May 24, 2018).

[23] Commenters to the *FY 2018 NPRM* are listed in Appendix A.

[24] *See* NCTA Comments at 6–7; ACA Comments at 4 & n.13.

[25] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Report and Order, 30 FCC Rcd 10268, 10277, paragraph 20 (2015) (*FY 2015 Report and Order*), 80 FR 55775 (Sept. 17, 2015).

[26] *FY 2015 Report and Order,* 30 FCC Rcd at 10277, paragraph 20.

[27] *Assessment and Collection of Regulatory Fees for Fiscal Year 2017, Report and Order,* 32 FCC Rcd 7057, 7067, paragraph 20 (2017) (*FY 2017 Report and Order*), 82 FR 44322 (Sept. 22, 2017); *Assessment and Collection of Regulatory Fees for Fiscal Year 2016, Report and Order,* 31 FCC Rcd 10339, 10350, paragraph 30 (2016) *(FY 2016 Report and Order*), 81 FR 65926 (Sept. 26, 2016).

[28] *FY 2018 NPRM* at paragraph 19.

fees across these providers,[29] we believe it prudent to adopt our proposal to increase such rates by less than one cent per subscriber per month, or 10 cents per subscriber per year. Doing so reflects the statutory imperative to take into account the FTEs devoted to oversight of this common category of regulatees, ''adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including . . . factors that the Commission determines are necessary in the public interest,'' [30] such as our concern to mitigate the impact of increases on MVPDs should we move to immediate parity (which a regulatory fee of 67 cents per subscriber per year would achieve).[31]

11. AT&T and DISH—the two DBS operators—reiterate several arguments against any increase in DBS regulatory fees that they have raised, and the Commission has rejected, in previous years. For example, AT&T and DISH claim that the proposed fee increase will result in ''rate shock,'' [32] even though last year the Commission held an increase of about one penny per subscriber per month would not cause such shock.[33] AT&T and DISH also claim the Commission cannot increase DBS regulatory fees without an allocation of ''additional FTEs to handle DBS matters,'' [34] even though last year the Commission held that the DBS regulatory fee is based on the significant number of Media Bureau FTEs that work on MVPD issues that include DBS, ''not a particular number of FTEs focused solely on DBS'' or ''specific recent proceedings.'' [35] For these reasons, we reject these arguments and agree with commenters that the continued participation of DBS operators in Commission proceedings, along with the use of a common pool of FTEs to oversee MVPD matters (including matters related to DBS operators in particular), justifies an increase in the DBS regulatory fee rate.

FY 2018 Adjustment: Terrestrial and Satellite International Bearer Circuits

12. As discussed in the *FY 2018 NPRM,* the Commission has previously sought comment on adopting a tiered methodology for assessing terrestrial and satellite international bearer circuit regulatory fees, and we should have sufficient information from payors in September 2018 to be able to consider a tiered rate structure for FY 2019.[36] In the meantime, the Commission proposed to continue assessing terrestrial and satellite IBC regulatory fees on a per-circuit basis for FY 2018, using Gbps as the measurement rather than 64 kbps.[37] CenturyLink observes that the proposed rate of $0.02 per circuit in Appendix B to the *FY 2018 NPRM* used 64 kbps instead of Gbps.[38] We agree with CenturyLink that the measurement listed in the *FY 2018 NPRM* should have been Gbps instead of 64 kbps, and we are therefore adopting the proposed per-circuit fee of $176, using Gbps, in lieu of 64 kbps. No commenter opposed this proposal.

FY 2019 Amendment: Broadcast Television Stations

13. Full service television station licensees are subject to regulatory fee payments based on the market served. Historically, broadcast full service television stations pay regulatory fees based on the schedule of regulatory fees established in section 9(g) of the Communications Act, which consolidated stations into market groupings 1–10, 11–25, 26–50, 51–100, and remaining markets.[39] The Commission subsequently established a separate fee category for broadcast television satellite stations.[40] The Commission uses Nielsen Designated Market Areas (DMAs) to define the market a station serves. For FY 2017, the regulatory fees for full service stations ranged from $1,725 for satellite stations to $59,750 for stations in markets 1–10.

14. In the *FY 2018 NPRM,* we sought comment on whether we could more accurately ascertain the actual market served by a station for purposes of assessing regulatory fees by examining the actual population covered by the station's contours rather than using DMAs.[41] Specifically we sought comment on whether, for FY 2019 and going forward, regulatory fees should be assessed for full-power broadcast television stations based on the population covered by the station's contour, instead of DMAs.[42] No commenter opposed this proposal. In the *FY 2018 NPRM,* we also sought comment on whether to phase in the implementation of this methodology over a two-year, or longer, period of time.[43] In order to facilitate the transition to this new fee structure, for FY 2019, we plan to adopt a fee based on an average of the current DMA methodology and the population covered by a full-power broadcast station's contour. Thereafter, in 2020, we plan to assess regulatory fees for full-power broadcast stations based on the population covered by the station's contour. Such an approach is consistent with the methodology used for AM and FM broadcasters, in which fees are based on population served and the class of service based on the signal contours. In addition, this approach addresses concerns about the assessment of regulatory fees on broadcast television satellite stations serving small markets at the fringe of larger DMAs.[44] The population data for broadcasters' service areas will be extracted annually from the TVStudy database, based on a station's projected noise-limited service contour, consistent with our rules,[45] and we will enable broadcasters to review population data for their service area in our annual regulatory fee NPRM. We will multiply the population by a factor for which we will seek comment in the annual regulatory fee NPRM, *e.g.,* 0.63 cents ($.0063).

15. The adoption of these methodologies for assessing regulatory fees for broadcast television stations is a permitted amendment as defined in

[29] ACA Comments at 1–3; NCTA Comments at 4.

[30] 47 U.S.C. 159(b)(1)(A).

[31] For similar reasons, we reject NCTA's request to increase the DBS regulatory fee to at least 60 cents per subscriber per year (and reduce the proposed cable television/IPTV regulatory fee to 72 cents per subscriber per year) in order to accommodate cable television providers' chosen billing systems. *See* NCTA Comments at 8 & n.23.

[32] DISH and AT&T Comments at 9.

[33] *See also FY 2017 Report and Order,* 32 FCC Rcd at 7067, paragraph 21 (rejecting the claim that a regulatory fee increase of several cents per subscriber, per month would harm customers given that ''such an increase is a negligible faction of a monthly bill'').

[34] AT&T and DISH Comments at 3.

[35] *FY 2017 Report and Order,* 32 FCC Rcd at 7067–68, paragraphs 22–23; *see also FY 2015 NPRM and Report and Order,* 30 FCC Rcd 5354, 5369, paragraph 33 (2015) (*FY 2015 NPRM and Report and Order*), 80 FR 37206 (June 30, 2015) (''We also reject the argument raised by DIRECTV and DISH that section 9 of the Act requires us to 'show that DBS and cable occupy a comparable number of FTEs.' '').

[36] *See FY 2018 NPRM,* paragraphs 22–26. SIA raises a number of arguments in opposition to a tiered methodology for assessing terrestrial and satellite IBC regulatory fees. *See* SIA Comments at 1–2 (''SIA continues to oppose use of a tier-based system to calculate fees . . . . Instead, the Commission should reconsider exempting satellite IBCs from IBC [regulatory] fees or retain the current assessment method.); *id.* at 2–5. Because we do not adopt a tiered methodology at this time, we do not address SIA's arguments here.

[37] *FY 2018 NPRM.* paragraph 26.

[38] CenturyLink Comments at 1–2.

[39] 47 U.S.C. 159(g).

[40] *Assessment and Collection of Regulatory Fees for Fiscal Year 1995,* Report and Order, 10 FCC Rcd 13512, 13534, paragraph 60 (1995), 60 FR 34004 (June 29, 1995).

[41] *FY 2018 NPRM* at paragraph 28.

[42] *FY 2018 NPRM* at paragraph 28.

[43] *FY 2018 NPRM* at paragraph 28.

[44] *See, e.g., FY 2017 NPRM,* 32 FCC Rcd at 4534–36, paragraphs 20–22, 82 FR 26019 (June 6, 2017) (discussing concerns about the regulatory fees assessed on broadcast satellite television stations serving small markets at the fringe of larger DMAs).

[45] 47 CFR 73.622(e).

section 9(b)(3) of the Act,[46] and pursuant to section 9(b)(4)(B), it must be submitted to Congress at least 90 days before it would become effective.[47] Therefore, for FY 2018, we will assess regulatory fees for all broadcast television stations using the same methodology as we did for FY 2017.[48] The regulatory fees for broadcast television stations for FY 2018 are in Table 4.

V. Order—Collection Costs for Regulatory and Application Fees

16. The Commission's rules requires the assessment of administrative costs incurred for processing and handling delinquent debts.[49] However, the RAY BAUM'S Act amended the Communications Act, in relevant part, prohibiting the Commission from assessing its administrative costs of collecting delinquent regulatory and application fee debt (or related penalties), effective October 1, 2018.[50] Therefore, we amend our rules to reflect these statutory changes.[51] This rule change will become effective on October 1, 2018.

17. We find good cause under section 553(b)(B) of the Administrative Procedure Act[52] to adopt this change without prior notice and comment. Section 553(b)(B) provides that notice and public comment procedures do not apply when ''impracticable, unnecessary, or contrary to the public interest.'' New section 9A of the Communications Act is clear in its directive that the Commission must cease applying to regulatory and application fees or penalties the provisions of section 3717 of Title 31, United States Code, that do not involve interest rates. The Commission is thus afforded no discretion to apply such provisions of section 3717 to such fees or penalties because its prior authority has been eliminated by statute. As a result, prior notice or comment is unnecessary.[53]

VI. Procedural Matters

Broadcast Television Licenses, Post-Incentive Auction

18. On March 29, 2016, the Commission commenced the incentive auction to allow broadcast television stations to make their spectrum available for wireless broadband licensees. On April 13, 2017, the Commission released a Public Notice formally closing the auction[54] and beginning the 39-month post-auction transition period during which some broadcast television stations will transition to new channel assignments and other stations will go off the air. We remind licensees that those who held a broadcast television station license on October 1, 2017 are responsible for FY 2018 regulatory fees for that license.[55] Licensees who have relinquished their licenses by September 30, 2017 are not responsible for FY 2018 regulatory fees for the cancelled license.[56]

Payment of Regulatory Fees

1. Checks Are Not Accepted for Payment of Annual Regulatory Fees

19. All regulatory fee payments must be made by online Automated Clearing House (ACH) payment, online credit card, or wire transfer. Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form 159–E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information.

2. Credit Card Transaction Levels

20. Since June 1, 2015, in accordance with U.S. Treasury Announcement No. A–2014–04 (July 2014), the amount that can be charged on a credit card for transactions with federal agencies has is $24,999.99.[57] Transactions greater than $24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, ACH debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2018 regulatory fee collection in Fact Sheets, available at *https://www.fcc.gov/regfees.*

3. Payment Methods

21. During the fee season for collecting FY 2018 regulatory fees, regulatees can pay their fees by credit card through *Pay.gov*,[58] ACH, debit card,[59] or by wire transfer. Additional filing and payment instructions are posted on the Commission's website at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees.* The receiving bank for all wire payments is the U.S. Treasury, New York, New York. When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159–E to the Federal Communications Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be

[46] 47 U.S.C. 159(b)(3).

[47] 47 U.S.C. 159(b)(4)(B).

[48] *See e.g., FY 2018 NPRM* at Appendix H.

[49] 47 CFR 1.1940(c). This provision implements 31 U.S.C. 3717(e), part of the Debt Collection Improvement Act.

[50] New section 9A(c)(2) requires the Commission to charge interest at the rate set forth in 31 U.S.C. 3717 on delinquent regulatory and application fee debt as well as the 25 percent penalty prescribed in new section 9A(c)(1). However, new section 9A(c)(2) provides that section 3717 shall not otherwise apply to such a fee or penalty. Thus, while new section 9A(c)(2) of the Communications Act leaves intact those parts of § 1.1940 of the Commission's rules pertaining to interest charges, the Commission is no longer authorized to assess its administrative costs on these delinquent debts.

[51] *See* ''Final Rules'' section at the end of this document (amending § 1.1940(c) of the Commission's rules).

[52] 5 U.S.C. 553(b)(B).

[53] The Commission previously has applied the unnecessary prong to encompass rule amendments that involve little or no exercise of agency discretion. *See, e.g., Amendment of Parts 0, 1, 73, and 74 of the Commission's Rules,* Order, 26 FCC Rcd 13538, 13544, 13539–41, 13543, 13545, paragraphs 4–5, 10, 15 (OMD 2011), 76 FR 70904 (Nov. 16, 2011) (deleting or amending obsolete rule provisions, including those superseded by an Act of Congress).

[54] *Incentive Auction Closing and Channel Reassignment Public Notice,* Public Notice, 32 FCC Rcd 2786 (MB, WTB 2017).

[55] *See* ''Standard Fee Calculation and Payment Dates,'' paragraph 20, *infra.*

[56] Cancelled licenses from May 31, 2017 through September 30, 2017 are, according to the Commission's records, the following call signs: KSPR, WIFR, WAGT, WDLP–CD, WEMM–CD, KMMA–CD, WAZF–CD, WLPH–CD, WQVC–CD, WQCH–CD, WBOA–CD, WMUN–CD, WTSD–CD, WATA–CD, WHTV, WMEI, WWIS–CD.

[57] Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, $24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

[58] In accordance with U.S. Treasury Financial Manual Announcement No. A–2014–04 (July 2014), the amount that may be charged on a credit card for transactions with federal agencies has been reduced to $24,999.99.

[59] In accordance with U.S. Treasury Financial Manual Announcement No. A–2012–02, the maximum dollar-value limit for debit card transactions is eliminated. Only Visa and MasterCard branded debit cards are accepted by *Pay.gov.*

initiated and completed before the deadline. Complete instructions for making wire payments are posted at *https://www.fcc.gov/licensing-databases/fees/wire-transfer.*

4. De Minimis Regulatory Fees

22. Under the Commission's de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is $1,000 or less for the fiscal year. The de minimis threshold applies only to filers of annual regulatory fees, not regulatory fees paid through multi-year filings, and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether they meet the de minimis exemption.

5. Standard Fee Calculations and Payment Dates

23. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

• *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2017 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.[60] For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in § 52.103 of the Commission's rules.[61] The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2017.

• *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2017. The number of subscribers, units, or telephone numbers on December 31, 2017 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *Wireless Services, Multi-year fees:* The first eight regulatory fee categories in our Schedule of Regulatory Fees pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2018.

• *Multichannel Video Programming Distributor Services (cable television operators, CARS licensees, DBS, and IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2017.[62] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of Direct Broadcast Satellite (DBS) service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *International Services (Submarine Cable Systems):* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis for all systems that are licensed and operational as of October 1, 2017. The fee is based on circuit capacity as of December 31, 2017. In instances where a license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2018 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

• *International Services (Terrestrial and Satellite Services):* Regulatory fees for Terrestrial and Satellite IBCs are to be paid based on active (used or leased) international bearer circuits as of December 31, 2017 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, entities must include circuits used by themselves or their affiliates. For these purposes, ''active circuits'' include backup and redundant circuits as of December 31, 2017 and include both common carrier and non-common carrier circuits for both terrestrial and satellite services. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.[63] In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date based on circuit counts as of December 31, 2017. For regulatory fee purposes, the allocation in FY 2018 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

Commercial Mobile Radio Service (CMRS) and Mobile Services Assessments

24. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on ''assigned'' telephone

[60] Audio bridging services are toll teleconferencing services.

[61] 47 CFR 52.103.

[62] Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service.

Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on ''a typical day in the last full week'' of December 2017, rather than on a count as of December 31, 2017.

[63] We encourage terrestrial and satellite service providers to seek guidance from the International Bureau's Telecommunications and Analysis Division to verify their particular IBC reporting processes to ensure that their calculation methods comply with our rules.

number (subscriber) counts that have been adjusted for porting to net Type 0 ports (''in'' and ''out'').[64] This information of telephone numbers (subscriber count) will be posted on the Commission's electronic filing and payment system (Fee Filer) along with the carrier's Operating Company Numbers (OCNs).

25. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation.[65] The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

26. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.,* compute their telephone number counts as of December 31, 2017), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

Enforcement

27. To be considered timely, regulatory fee payments must be made electronically by the payment due date for regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline for filing these fees.[66] Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in § 1.1910 of the Commission's rules,[67] which generally requires the Commission to withhold action on ''applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission'' and in the DCIA.[68] We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the debt pursuant to the DCIA and § 1.1940(c) of the Commission's rules.[69] These administrative processing charges will be assessed on any delinquent FY 2018 regulatory fee, in addition to the 25 percent late charge penalty. In the case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

28. In addition to financial penalties, section 9(c)(3) of the Act,[70] and § 1.1164(f) of the Commission's rules [71] grant the FCC the authority to revoke authorizations for failure to pay regulatory fees in a timely fashion. Should a fee delinquency not be rectified in a timely manner the Commission may require the licensee to file with documented evidence within sixty (60) calendar days that full payment of all outstanding regulatory fees has been made, plus any associated penalties as calculated by the Secretary of Treasury in accordance with § 1.1164(a) of the Commission's rules,[72] or show cause why the payment is inapplicable or should be waived or deferred. Failure to provide such evidence of payment or to show cause within the time specified may result in revocation of the station license.[73]

29. Pursuant to the ''red light rule,'' we will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.[74] Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).[75]

Effective Date

6. Report and Order—FY 2018 Regulatory Fees

30. Providing a 30-day period after **Federal Register** publication before this Report and Order becomes effective as required by 5 U.S.C. 553(d) will not allow sufficient time to collect the FY 2018 fees before FY 2018 ends on September 30, 2018. For this reason, pursuant to 5 U.S.C. 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this Report and Order will become effective upon publication in the **Federal Register**. Because payments of the regulatory fees will not actually be due until late September, persons affected by this Report and Order will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

7. Order—Collection Costs for Regulatory and Application Fees

31. In our Order above, we amend § 1.1940 of our rules and find that there

[64] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2005,* Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paragraphs 38–44 (2005).

[65] In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

[66] 47 U.S.C. 159(c).

[67] *See* 47 CFR 1.1910.

[68] Delinquent debt owed to the Commission triggers the ''red light rule,'' which places a hold on the processing of pending applications, fee offsets, and pending disbursement payments. 47 CFR 1.1910, 1.1911, 1.1912. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *See Amendment of Parts 0 and 1 of the Commission's Rules,* MD Docket No. 02–339, Report and Order, 19 FCC Rcd 6540 (2004), 69 FR 27843 (May 17, 2004); 47 CFR part 1, subpart O, Collection of Claims Owed the United States.

[69] 47 CFR 1.1940(c). As discussed in Part IV above, the amendment to § 1.1940(c) of the Commission's rules that we adopt to reflect amendments to the Communications Act by the RAY BAUM'S Act does not take effect until October 1, 2018. Therefore, the Commission will assess administrative processing charges for failure to timely pay FY 2019 regulatory fees, which are due in September 2018.

[70] 47 U.S.C. 159(c)(3).

[71] 47 CFR 1.1164(f).

[72] 47 CFR 1.1164(a).

[73] *See, e.g., Cortaro Broadcasting Corp.,* Order to Pay or Show Cause, 32 FCC Rcd 9336 (MB 2017).

[74] *See* 47 CFR 1.1161(c), 1.1164(f)(5), and 1.1910.

[75] 47 U.S.C. 159.

is good cause under 5 U.S.C. 553(b)(B) to adopt the clarification without following the notice and comment procedures of the Administrative Procedure Act.[76] Similarly, under these circumstances, we find that these actions fall under the good cause exemption to the 5 U.S.C. 553(d) effective date requirements and the clarification of § 1.1940 of our rules will become effective on October 1, 2018.

VII. Additional Tables

TABLE 1—LIST OF COMMENTERS

Commenter	Abbreviated name
American Cable Assocation	ACA.
Astro Digital, US, Inc., Planet, Inc., and Spire Global, Inc	Astro Digital, Planet, and Spire.
CenturyLink, Inc	CenturyLink.
DISH Network L.L.C. and AT&T Services, Inc	DISH and AT&T.
Richard A. Golden	Golden.
NCTA—The Internet and Television Association	NCTA.
Satellite Industry Association	SIA.
Somos, Inc	Somos.
University Small-Satellite Researchers	Small-Satellite Researchers.

TABLE 2—LIST OF REPLY COMMENTERS

AT&T Services, Inc	AT&T.
CenturyLink, Inc	CenturyLink.
EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC	EchoStar.
NCTA—The Internet & Television Assocation and the American Cable Association	NCTA and ACA.

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

TABLE 3—CALCULATION OF FY 2018 REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee category	FY 2018 payment units	Years	FY 2017 revenue estimate	Pro-rated FY 2018 revenue requirement	Computed FY 2018 regulatory fee	Rounded FY 2018 regulatory fee	Expected FY 2018 revenue
PLMRS (Exclusive Use)	340	10	325,000	85,000	25	25	85,000
PLMRS (Shared use)	12,500	10	1,600,000	1,250,000	10	10	1,250,000
Microwave	7,750	10	2,950,000	1,937,500	25	25	1,937,500
Marine (Ship)	7,150	10	1,215,000	1,072,500	15	15	1,072,500
Aviation (Aircraft)	4,000	10	420,000	400,000	10	10	400,000
Marine (Coast)	75	10	60,000	30,000	40	40	30,000
Aviation (Ground)	1,000	10	220,000	200,000	20	20	200,000
AM Class A [1]	63	1	305,500	266,175	4,214	4,225	266,175
AM Class B [1]	1,523	1	3,807,500	3,274,450	2,162	2,150	3,274,450
AM Class C [1]	872	1	1,348,500	1,177,200	1,352	1,350	1,177,200
AM Class D [1]	1,503	1	4,476,000	3,907,800	2,592	2,600	3,907,800
FM Classes A, B1 & C3 [1]	3,166	1	9,371,250	8,152,450	2,582	2,575	8,152,450
FM Classes B, C, C0, C1 & C2 [1]	3,128	1	11,521,800	10,009,600	3,203	3,200	10,009,600
AM Construction Permits [2]	9	1	5,550	4,950	550	550	4,950
FM Construction Permits [2]	109	1	110,740	105,185	965	965	105,185
Satellite TV	126	1	217,350	189,000	1,497	1,500	189,000
Digital TV Mkt 1–10	144	1	8,305,250	7,164,000	49,739	49,750	7,164,000
Digital TV Mkt 11–25	140	1	5,898,275	5,243,000	37,455	37,450	5,243,000
Digital TV Mkt 26–50	189	1	5,439,050	4,729,725	25,013	25,025	4,729,725
Digital TV Mkt 51–100	290	1	4,267,875	3,617,750	12,470	12,475	3,617,750
Digital TV Remaining Markets	389	1	1,807,475	1,594,900	4,099	4,100	1,594,900
Digital TV Construction Permits [2]	3	1	14,775	12,300	4,100	4,100	12,300
LPTV/Translators/Boosters/Class A TV	3,989	1	1,741,930	1,515,820	378	380	1,515,820
CARS Stations	175	1	215,050	188,125	1,068	1,075	188,125
Cable TV Systems, including IPTV	61,000,000	1	58,900,000	46,970,000	.7658	.77	46,970,000
Direct Broadcast Satellite (DBS)	32,000,000	1	12,350,000	15,360,000	.480	.48	15,360,000
Interstate Telecommunication Service Providers	$34,600,000,000	1	111,740,000	100,686,000	0.002906	0.00291	100,686,000
Toll Free Numbers	33,200,000	1	3,924,000	3,320,000	0.10405	0.10	3,320,000
CMRS Mobile Services (Cellular/Public Mobile)	404,000,000	1	82,530,000	80,800,000	0.195	0.20	80,800,000
CMRS Messag. Services	1,000,000	1	168,000	80,000	0.0800	0.080	80,000
BRS/ [3]	1,175	1	696,000	567,050	600	600	705,000
LMDS	400	1	316,000	378,250	600	600	240,000
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common and Non-Common) & Satellite (Common & Non-Common)	2,831	1	901,680	685,102	176	176	685,102
Submarine Cable Providers (see chart in Table 4) [4]	41.19	1	5,660,261	4,959,228	120,405	120,400	4,959,035
Earth Stations	3,400	1	1,224,000	1,105,000	326	325	1,105,000

[76] *See supra* Section V.

TABLE 3—CALCULATION OF FY 2018 REVENUE REQUIREMENTS AND PRO-RATA FEES—Continued

Fee category	FY 2018 payment units	Years	FY 2017 revenue estimate	Pro-rated FY 2018 revenue requirement	Computed FY 2018 regulatory fee	Rounded FY 2018 regulatory fee	Expected FY 2018 revenue
Space Stations (Geostationary)	97	1	13,669,725	12,401,450	127,839	127,850	12,401,450
Space Stations (Non-Geostationary)	7	1	947,450	859,425	122,776	122,775	859,425
******Total Estimated Revenue to be Collected			358,670,986	324,323,753			324,365,671
******Total Revenue Requirement			356,710,992	322,035,000			322,035,000
Difference			1,959,994	2,288,753			2,330,671

Notes on Table 3:

[1] The fee amounts listed in the column entitled ''Rounded New FY 2018 Regulatory Fee'' constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2018 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 4.

[2] The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

[3] MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands,* Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, paragraph 6 (2004), 69 FR 72048 (Dec. 10, 2004).

[4] The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008), 73 FR 5028 (Aug. 26, 2008) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 24 FCC Rcd 4208 (2009), 74 FR 22104 (May 12, 2009).

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

TABLE 4—FY 2018 REGULATORY FEES

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.20
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	600
Local Multipoint Distribution Service (per call sign) (47 CFR part 101)	600
AM Radio Construction Permits	550
FM Radio Construction Permits	965
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10	49,750
Markets 11–25	37,450
Markets 26–50	25,025
Markets 51–100	12,475
Remaining Markets	4,100
Construction Permits	4,100
Satellite Television Stations (All Markets)	1,500
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	380
CARS (47 CFR part 78)	1,075
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.77
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.48
Interstate Telecommunication Service Providers (per revenue dollar)	.00291
Toll Free (per toll free subscriber) (47 CFR 52.101(f) of the rules)	.10
Earth Stations (47 CFR part 25)	325
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	127,850
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	122,775
International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit)	176
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2018 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$880	$635	$550	$605	$965	$1,100
25,001–75,000	$1,325	$950	$825	$910	$1,450	$1,650
75,001–150,000	$1,975	$1,425	$1,250	$1,350	$2,175	$2,475
150,001–500,000	$2,975	$2,150	$1,850	$2,050	$3,250	$3,725
500,001–1,200,000	$4,450	$3,225	$2,775	$3,050	$4,875	$5,575
1,200,001–3,000,00	$6,700	$4,825	$4,175	$4,600	$7,325	$8,350
3,000,001–6,000,00	$10,025	$7,225	$6,275	$6,900	$11,000	$12,525
>6,000,000	$15,050	$10,850	$9,400	$10,325	$16,500	$18,800

FY 2018 INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE SYSTEMS

Submarine cable systems (capacity as of December 31, 2017)	Fee amount for FY 2018
Less than 50 Gbps	$9,850
50 Gbps or greater, but less than 250 Gbps	19,725
250 Gbps or greater, but less than 1,000 Gbps	39,425
1,000 Gbps or greater, but less than 4,000 Gbps	78,875
4,000 Gbps or greater	157,750

Table 5—Sources of Payment Unit Estimates for FY 2018

In order to calculate individual service fees for FY 2018, we adjusted FY 2017 payment units for each service to more accurately reflect expected FY 2018 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2018 estimates with actual FY 2017 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2018 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2018 payment units are based on FY 2017 actual payment units, it does not necessarily mean that our FY 2018 projection is exactly the same number as in FY 2017. We have either rounded the FY 2018 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 17 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 17 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2017 payment units.
LMDS	Based on WTB reports and actual FY 2017 payment units.
Cable Television Relay Service (CARS) Stations.	Based on data from Media Bureau's COALS database and actual FY 2017 payment units.
Cable Television System Subscribers, Including IPTV Subscribers.	Based on publicly available data sources for estimated subscriber counts and actual FY 2017 payment units.
Interstate Telecommunication Service Providers.	Based on FCC Form 499–Q data for the four quarters of calendar year 2017, the Wireline Competition Bureau projected the amount of calendar year 2017 revenue that will be reported on 2018 FCC Form 499–A worksheets due in April, 2018.
Earth Stations	Based on International Bureau ("IB") licensing data and actual FY 2017 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2017 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees, adjusted as necessary.

Fee category	Sources of payment unit estimates
Submarine Cable Licenses	Based on IB license information.

TABLE 6—FACTORS, MEASUREMENTS, AND CALCULATIONS THAT DETERMINE STATION SIGNAL CONTOURS AND ASSOCIATED POPULATION COVERAGES

AM Stations:

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§ 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations:

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

Table 7—FY 2017 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee category	Annual regulatory fee (U.S. $s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.21
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	800
Local Multipoint Distribution Service (per call sign) (47 CFR part 101)	800.
AM Radio Construction Permits	555
FM Radio Construction Permits	980
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10	59,750
Markets 11–25	45,025
Markets 26–50	30,050
Markets 51–100	14,975
Remaining Markets	4,925
Construction Permits	4,925
Satellite Television Stations (All Markets)	1,725
Low Power TV, Class A TV, TV/FM Trans. & Boosters (47 CFR part 74)	430
CARS (47 CFR part 78)	935
Cable Television Systems (per subscriber) (47 CFR part 76), including IPTV	.95
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.38
Interstate Telecommunication Service Providers (per revenue dollar)	.00302
Toll Free (per toll free subscriber) (47 CFR 52.101(f) of the rules)	.12
Earth Stations (47 CFR part 25)	360
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	140,925

Fee category	Annual regulatory fee (U.S. $s)
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	135,350
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.03
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2017 Radio Station Regulatory Fees

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$895	$640	$555	$610	$980	$1,100
25,001–75,000	1,350	955	830	915	1,475	1,650
75,001–150,000	2,375	1,700	1,475	1,600	2,600	2,925
150,001–500,000	3,550	2,525	2,200	2,425	3,875	4,400
500,001–1,200,000	5,325	3,800	3,300	3,625	5,825	6,575
1,200,001–3,000,00	7,975	5,700	4,950	5,425	8,750	9,875
3,000,001–6,000,00	11,950	8,550	7,400	8,150	13,100	14,800
>6,000,000	17,950	12,825	11,100	12,225	19,650	22,225

FY 2017 Regulatory Fees International Bearer Circuits—Submarine Cable

Submarine cable systems (capacity as of December 31, 2016)	Fee amount
<2.5 Gbps	$8,600
2.5 Gbps or greater, but less than 5 Gbps	17,175
5 Gbps or greater, but less than 10 Gbps	34,350
10 Gbps or greater, but less than 20 Gbps	68,725
20 Gbps or greater	137,425

VIII. Final Regulatory Flexibility Analysis

32. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[77] an Initial Regulatory Flexibility Analysis (IRFA) was included in the *Notice of Proposed Rulemaking (NPRM).*[78] The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.[79]

A. Need for, and Objectives of, the Report and Order

33. In this Report and Order we adopt our proposal in the Notice of Proposed Rulemaking on collecting $322,035,000 in regulatory fees for FY 2018, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act).[80] These regulatory fees will be due in September 2018. Under section 9 of the Communications Act, regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities in an amount that can be reasonably expected to equal the amount of the Commission's annual appropriation.[81] This Report and Order adopts the regulatory fees proposed in the Notice of Proposed Rulemaking.

B. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

34. None.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

35. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[82] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [83] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[84] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[85] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[86]

36. Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.

[77] 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 (SBREFA), Public Law Number 104–121, Title II, 110 Stat. 847 (1996).

[78] *Assessment and Collection of Regulatory Fees for Fiscal Year 2017,* Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057 (2017), 82 FR 50598 (Nov. 1, 2017).

[79] 5 U.S.C. 604.

[80] 47 U.S.C. 159.

[81] 47 U.S.C. 159(a).

[82] 5 U.S.C. 603(b)(3).

[83] 5 U.S.C. 601(6).

[84] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[85] 15 U.S.C. 632.

[86] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.*

Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [87] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[88] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[89] Thus, under this size standard, most firms in this industry can be considered small.

37. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[90] According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[91] The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

38. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[92] According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.[93] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[94] Of this total, an estimated 1,006 have 1,500 or fewer employees.[95]

39. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[96] U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[97] Based on this data, the Commission concludes that most Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[98] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.[99] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[100] Also, 72 carriers have reported that they are Other Local Service Providers.[101] Of this total, 70 have 1,500 or fewer employees.[102] Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

40. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[103] U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[104] According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[105] Of this total, an estimated 317 have 1,500 or fewer employees.[106] Consequently, the Commission estimates that most interexchange service providers are small entities that may be affected by the rules adopted.

41. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.[107] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[108] U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000

[87] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[88] *See* 13 CFR 120.201, NAICS code 517110.

[89] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[90] 13 CFR 121.201, NAICS code 517110.

[91] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[92] 13 CFR 121.201, NAICS code 517110.

[93] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[94] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

[95] *Id.*

[96] 13 CFR 121.201, NAICS code 517110.

[97] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[98] *See Trends in Telephone Service,* at Table 5.3.

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*

[103] 13 CFR 121.201, NAICS code 517110.

[104] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[105] *See Trends in Telephone Service,* at Table 5.3.

[106] *Id.*

[107] *http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[108] 13 CFR 121.201, NAICS code 517911.

employees.[109] Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[110] All 193 carriers have 1,500 or fewer employees.[111] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

42. *Local Resellers.* Neither the Commission nor the SBA has developed a small business size standard specifically for Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[112] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[113] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[114] Of this total, an estimated 211 have 1,500 or fewer employees.[115] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

43. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.[116] Under that size standard, such a business is small if it has 1,500 or fewer employees.[117] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[118] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[119] Of this total, an estimated 857 have 1,500 or fewer employees.[120] Consequently, the Commission estimates that the majority of toll resellers are small entities.

44. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[121] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[122] Thus, under this category and the associated small business size standard, most Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[123] Of these, an estimated 279 have 1,500 or fewer employees.[124] Consequently, the Commission estimates that most Other Toll Carriers are small entities.

45. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.[125] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.[126] Of this total, an estimated 261 have 1,500 or fewer employees.[127] Thus, using available data, we estimate that the majority of wireless firms can be considered small.

46. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' [128] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: those having $38.5 million or less in annual receipts.[129] The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than $25 million per year. Based on that Census data we conclude that most firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,383.[130] In addition, according to Commission staff review of the BIA Advisory Services, LLC's Media Access Pro Television Database, on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of $14 million or less.[131] We therefore estimate that the

[109] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[110] *See Trends in Telephone Service,* at Table 5.3.

[111] *Id.*

[112] 13 CFR 121.201, NAICS code 517911.

[113] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[114] *See Trends in Telephone Service,* at Table 5.3.

[115] *Id.*

[116] 13 CFR 121.201, NAICS code 517911.

[117] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[118] *Id.*

[119] *Trends in Telephone Service* at Table 5.3.

[120] *Id.*

[121] 13 CFR 121.201, NAICS code 517110.

[122] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[123] *Trends in Telephone Service* at Table 5.3.

[124] *Id.*

[125] NAICS code 517210. *See http://www.census.gov/cgi-bin/ssd/naics/naicscsrch.*

[126] *Trends in Telephone Service* at Table 5.3.

[127] *Id.*

[128] U.S. Census Bureau, 2012 NAICS code Economic Census Definitions, *http://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[129] 13 CFR 121.201, NAICS code 515120.

[130] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

[131] We recognize that BIA's estimate differs slightly from the FCC total.

majority of commercial television broadcasters are small entities.

47. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [132] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

48. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 394.[133] These stations are non-profit, and therefore considered to be small entities.[134] There are also 2,382 low power television stations, including Class A stations.[135] Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

49. *Radio Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' [136] The SBA has established a small business size standard for this category, which is: such firms having $38.5 million or less in annual receipts.[137] Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year.[138] According to Commission staff review of BIA Advisory Services, LLC's Media Access Pro Radio Database, on March 28, 2012, about 10,759 (97 percent) of 11,102 commercial radio stations had revenues of $38.5 million or less. Therefore, most such entities are small entities.

50. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.[139] In addition, to be determined to be a ''small business,'' the entity may not be dominant in its field of operation.[140] We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

51. *Cable Television and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[141] The SBA has established a size standard for this industry of $38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year. Of this total, 319 operated with annual receipts of less than $25 million.[142] Thus under this size standard, most firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

52. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[143] The Commission's industry data indicate that there are currently 4,160 active cable systems in the United States.[144] Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.[145] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[146] Current Commission records show 4,160 cable systems nationwide.[147] Thus, under this standard as well, we estimate that most cable systems are small entities.

53. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [148] There are approximately 53 million cable video subscribers in the United States today.[149] Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[150] Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.[151] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[152] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues

[132] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.'' 13 CFR 21.103(a)(1).

[133] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

[134] *See generally* 5 U.S.C. 601(4), (6).

[135] *See FCC News Release,* ''Broadcast Station Totals as of March 31, 2017,'' April 11, 2017; *https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf.*

[136] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[137] 13 CFR 121.201, NAICS code 515112.

[138] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[139] ''Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.'' 13 CFR 121.103(a)(1) (an SBA regulation).

[140] 13 CFR 121.102(b) (an SBA regulation).

[141] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[142] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSSZ5&prodType=Table.*

[143] 47 CFR 76.901(e).

[144] As of July 5, 2018, there were 4,160 active cable systems in the Commission's Cable Operations and Licensing Systems (COALS) database.

[145] *See https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs* (last visited July 18, 2017).

[146] 47 CFR 76.901(c)

[147] *See* footnote 2, *supra.*

[148] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[149] *See* NCTA Industry Data, Cable's Customer Base, available at *https://www.ncta.com/industry-data* (last visited July 6, 2017).

[150] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[151] *See https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs* (last visited July 18, 2018).

[152] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

54. *Direct Broadcast Satellite (DBS) Service.* DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[153] The SBA determines that a wireline business is small if it has fewer than 1500 employees.[154] Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[155] Based on that data, we conclude that most wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, AT&T and DISH Network. AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that DBS service is provided only by large firms.

55. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[156] The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less.[157] For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million.[158] Thus, most ''All Other Telecommunications'' firms potentially affected by the rules adopted can be considered small.

56. *RespOrgs.* RespOrgs, *i.e.,* Responsible Organizations, are entities chosen by toll-free subscribers to manage and administer the appropriate records in the toll-free Service Management System for the toll-free subscriber.[159] Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

57. *Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers [160] and Wireless Telecommunications Carriers (except satellite).[161]

58. The U.S. Census Bureau defines Wired Telecommunications Carriers as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[162] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[163] Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.[164] Based on that data, we conclude that most Carrier RespOrgs that operated with wireline-based technology are small.

59. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.[165] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[166] Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.[167] Based on that data, we conclude that most Carrier RespOrgs that operated with wireless-based technology are small.

60. *Non-Carrier RespOrgs.* Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are ''Other Services Related To Advertising'' [168] and ''Other Management Consulting Services.'' [169]

[153] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[154] NAICS code 517110; 13 CFR 121.201.

[155] *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2017_PEPANNRES&src=pt.*

[156] *http://www.census.gov/cgi-bin/ssssd/naics/naicsrch.*

[157] 13 CFR 121.201; NAICS code 517919.

[158] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[159] *See* 47 CFR 52.101(b)

[160] 13 CFR 121.201, NAICS code 517110

[161] 13 CFR 121.201, NAICS code 517210.

[162] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[163] 13 CFR 120,201, NAICS code 517110.

[164] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[165] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[166] 13 CFR 120.201, NAICS code 517120.

[167] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[168] 13 CFR 120.201, NAICS code 541890.

[169] 13 CFR 120.201, NAICS code 541618.

61. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services.[170] The SBA has established a size standard for this industry as annual receipts of $15 million dollars or less.[171] Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than $10 million.[172] Based on that data we conclude that most Non-Carrier RespOrgs who provide TFN-related advertising services are small.

62. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.[173] The SBA has established a size standard for this industry of $15 million dollars or less.[174] Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts.[175] Based on this data, we conclude that most non-carrier RespOrgs who provide TFN-related management consulting services are small.[176]

63. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016, there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.[177]

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

64. This Report and Order does not adopt any new reporting, recordkeeping, or other compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

65. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[178]

66. This *Report and Order* adopts the proposals in the *Notice of Proposed Rulemaking* to collect $322,035,000 in regulatory fees for FY 2018, as detailed in the fee schedules in Table 4, including an increase in the DBS fee rate to 48 cents per subscriber so that the DBS fee would approach the cable television/IPTV fee, based on the Media Bureau FTEs devoted to issues that include DBS. The two DBS providers are not small entities. The regulatory fees adopted do not include any new fee categories, except for the addition of non-common carrier terrestrial international bearer circuits to the regulatory fee category of international bearer circuits, that previously did not pay regulatory fees. To the extent such providers are small entities, the rates for smaller numbers of circuits would be lower than the rates for larger quantity of circuits and, in addition, the de minimis of $1,000 would likely exempt the smaller entities from paying annual regulatory fees.

67. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, the Commission has increased the de minimis threshold to $1,000, which will impact many small entities that pay regulatory fees. This increase in the de minimis threshold to $1,000 will relieve regulatees both financially and administratively. Regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

F. Federal Rules That May Duplicate, Overlap, or Conflict

68. None.

IX. Ordering Clauses

69. Accordingly, *it is ordered* that, pursuant to Section 9 (a), (b), (e), (f), and (g) of the Communications Act of 1934, as amended, 47 U.S.C. 159(a), (b), (e), (f), and (g), this *Report and Order is hereby adopted*.

70. *It is further ordered* that, pursuant to Division P—RAY BAUM's Act of 2018, Title I, 101–103, Consolidated Appropriations Act, 2018, Public Law Number 115–141, 132 Stat. 1084, (2018), the Order in Section V *is hereby adopted*.

71. *It is further ordered* that the Report and Order in Section IV *shall be effective* upon publication in the **Federal Register**.

72. *It is further ordered* that the Order in Section V *shall be effective* on October 1, 2018.

73. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis in this *Report and Order,* to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

[170] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[171] 13 CFR 120.201, NAICS code 541890.

[172] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[173] *http://www.census.gov/cgi-bin/sssd/naics.naicsrch.*

[174] 13 CFR 120.201, NAICS code 514618.

[175] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[176] The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

[177] Email from Jennifer Blanchard, Somos, July 1, 2016.

[178] 5 U.S.C. 603(c)(1)–(c)(4).

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455; Sec. 102(c), Div. P, Public Law 115–141, 132 Stat. 1084, unless otherwise noted.

■ 2. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees for wireless radio services.

Exclusive use services (per license)	Fee amount [1]
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90):	
(a) New, Renew/Mod (FCC 601 & 159)	$25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
220 MHz Nationwide:	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
2. Microwave (47 CFR Pt. 101) (Private):	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
3. Shared Use Services Land Mobile (Frequencies Below 470 MHz—except 220 MHz):	
(a) New, Renew/Mod (FCC 601 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(c) Renewal Only (FCC 601 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	10.00
Rural Radio (Part 22):	
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) Marine Coast	10.00
Marine Coast (per license) (47 CFR part 80):	
(a) New Renewal/Mod (FCC 601 & 159)	40.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	40.00
(c) Renewal Only (FCC 601 & 159)	40.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00
Aviation Ground:	
(a) New, Renewal/Mod (FCC 601 & 159)	20.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	20.00
(c) Renewal Only (FCC 601 & 159)	20.00
(d) Renewal Only (Electronic Only) (FCC 601 & 159)	20.00
Marine Ship:	
(a) New, Renewal/Mod (FCC 605 & 159)	15.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	15.00
(c) Renewal Only (FCC 605 & 159)	15.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	15.00
Aviation Aircraft:	
(a) New, Renew/Mod (FCC 605 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	10.00
(c) Renewal Only (FCC 605 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	10.00
4. CMRS Cellular/Mobile Services (per unit) (FCC 159)	[2] .20
5. CMRS Messaging Services (per unit) (FCC 159)	[3].08
6. Broadband Radio Service (formerly MMDS and MDS)	600
7. Local Multipoint Distribution Service	600

[1] Note that ''small fees'' are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 10-year license term to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in § 1.1102.

[2] These are standard fees that are to be paid in accordance with § 1.1157(b).

[3] These are standard fees that are to be paid in accordance with § 1.1157(b).

■ 3. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount
Radio [AM and FM] (47 CFR part 73)	
1. *AM Class A:*	
<=25,000 population	$880
25,001–75,000 population	1,325
75,001–150,000 population	1,975
150,001–500,000 population	2,975

	Fee amount
500,001–1,200,000 population	4,450
1,200,001–3,000,000 population	6,700
3,000,001–6,000,000 population	10,025
>6,000,000 population	15,050
2. *AM Class B:*	
<=25,000 population	635
25,001–75,000 population	950
75,001–150,000 population	1,425
150,001–500,000 population	2,150
500,001–1,200,000 population	3,225
1,200,001–3,000,000 population	4,825
3,000,001–6,000,000 population	7,225
>6,000,000 population	10,850
3. *AM Class C:*	
<=25,000 population	550
25,001–75,000 population	825
75,001–150,000 population	1,250
150,001–500,000 population	1,850
500,001–1,200,000 population	2,775
1,200,001–3,000,000 population	4,175
3,000,001–6,000,000 population	6,275
>6,000,000 population	9,400
4. *AM Class D:*	
<=25,000 population	605
25,001–75,000 population	910
75,001–150,000 population	1,350
150,001–500,000 population	2,050
500,001–1,200,000 population	3,050
1,200,001–3,000,000 population	4,600
3,000,001–6,000,000 population	6,900
>6,000,000 population	10,325
5. AM Construction Permit	550
6. *FM Classes A, B1 and C3:*	
<=25,000 population	965
25,001–75,000 population	1,450
75,001–150,000 population	2,175
150,001–500,000 population	3,250
500,001–1,200,000 population	4,875
1,200,001–3,000,000 population	7,325
3,000,001–6,000,000 population	11,000
>6,000,000 population	16,500
7. *FM Classes B, C, C0, C1 and C2:*	
<=25,000 population	1,100
25,001–75,000 population	1,650
75,001–150,000 population	2,475
150,001–500,000 population	3,725
500,001–1,200,000 population	5,575
1,200,001–3,000,000 population	8,350
3,000,001–6,000,000 population	12,525
>6,000,000 population	18,800
8. FM Construction Permits	965
TV (47 CFR part 73)	
Digital TV (UHF and VHF Commercial Stations):	
1. Markets 1 thru 10	49,750
2. Markets 11 thru 25	37,450
3. Markets 26 thru 50	25,025
4. Markets 51 thru 100	12,475
5. Remaining Markets	4,100
6. Construction Permits	4,100
Satellite UHF/VHF Commercial:	
1. All Markets	1,500
Low Power TV, Class A TV, TV/FMTranslator, & TV/FM Booster (47 CFR part 74)	380

■ 4. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges for common carrier services.

Radio facilities	Fee amount
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	$25.00.

Radio facilities	Fee amount
Carriers:	
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A).	$.00291.
2. Toll Free Number Fee	$.10 per Toll Free Number.

■ 5. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees for cable television services.

1. Cable Television Relay Service	$1,075.
2. Cable TV System, Including IPTV (per subscriber)	$.77.
3. Direct Broadcast Satellite (DBS)	$.48 per subscriber.

■ 6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees for international services.

(a) *Geostationary Orbit (GSO) and Non-Geostationary Orbit (NGSO) Space Stations.* The following schedule applies for the listed services:

Fee category	Fee amount
Space Stations (Geostationary Orbit)	$127,850
Space Stations (Non-Geostationary Orbit)	122,775
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration)	325

(b) *International Terrestrial and Satellite.* (1) Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers and non-common carrier basis that have active (used or leased) international bearer circuits as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. ''Active circuits'' for these purposes include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount on a per active Gbps basis will be determined for each fiscal year.

International terrestrial and satellite (capacity as of December 31, 2017)	Fee amount
Terrestrial Common Carrier Terrestrial Non-Common Carrier. Satellite Common Carrier. Satellite Non-Common Carrier.	$176 per Gbps Circuit.

(c) *Submarine cable.* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year.

Submarine cable systems (capacity as of Dec. 31, 2017)	Fee amount
<50 Gbps	$9,850
50 Gbps or greater, but less than 250 Gbps	19,725
250 Gbps or greater, but less than 1,000 Gbps	39,425
1,0000 Gbps or greater, but less than 4,000 Gbps	78,875
4,000 Gbps or greater	157,750

■ 7. Section 1.1940(c) is revised to read as follows:

§ 1.1940 Assessment.

* * * * *

(c) The Commission shall assess administrative costs incurred for processing and handling delinquent debts, unless otherwise prohibited by statute. The calculation of administrative costs may be based on actual costs incurred or upon estimated costs as determined by the Commission. Commission administrative costs include the personnel and service costs (*e.g.,* telephone, copier, and overhead) to notify and collect the debt, without regard to the success of such efforts by the Commission.

* * * * *

[FR Doc. 2018–19548 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 844 and 845

RIN 2900–AQ05

VA Acquisition Regulation: Subcontracting Policies and Procedures; Government Property

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, we will publish them in the **Federal Register**. In particular, this rulemaking revises VAAR concerning Subcontracting Policies and Procedures and Government Property.

DATES: This rule is effective on October 18, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street, NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 6, 2018, VA published a proposed rule in the **Federal Register** (83 FR 14833) which announced VA's intent to amend regulations for VAAR Case RIN 2900–AQ05 (Parts 844 and 845). In particular, this final rule implements FAR part 44 by making public VA's additional requirements for providing its consent to subcontract, describes items that should be evaluated as a part of a contractor's purchasing system review and establishes that contractors should determine whether subcontract items meet the FAR definition of a commercial item and implements and supplements FAR part 45 by addressing procedures for contractors to document their acquisition of property for use in the service of VA contracts; to address the transfer of title to the Government of contractor-acquired property; and to outline the procedures for the use of such property on a successor contract.

VA provided a 60-day comment period for the public to respond to the proposed rule. The comment period for the proposed rule ended on June 5, 2018 and VA received no comments. This document adopts as a final rule the proposed rule published in the **Federal Register** on April 6, 2018, with minor formatting and/or grammatical edits.

Unfunded Mandates

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

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

This final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The overall impact of this final rule will be of benefit to small businesses owned by Veterans or service-disabled Veterans as the VAAR is being updated to remove extraneous procedural information that applies only to VA's internal operating procedures. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. VA estimates no cost impact to individual businesses would result from these rule updates. This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the final rule would not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this regulatory action is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866, 13563 and 13771

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 12866, Regulatory Planning and Review defines ''significant regulatory action'' to mean 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 it has been determined this rule is not a significant regulatory action under E.O. 12866. This final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 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 Fiscal Year to Date.

List of Subjects

48 CFR Part 844

Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 845

Government procurement, Government property, Reporting and recordkeeping requirements.

Signing Authority

The Secretary of Veterans Affairs 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. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on August 24, 2018, for publication.

Dated: September 12, 2018.

Consuela Benjamin,

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

■ For the reasons set out in the preamble, VA amends 48 CFR by adding parts 844 and 845 to read as follows:

PART 844—SUBCONTRACTING POLICIES AND PROCEDURES

Sec.

Subpart 844.2—Consent to Subcontracts

844.202–2 Considerations.

Subpart 844.3—Contractors' Purchasing Systems Reviews

844.303 Extent of review.

Subpart 844.4—Subcontracts for Commercial Items and Commercial Components

844.402 Policy requirements.

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702 and 48 CFR 1.301–1.304.

Subpart 844.2—Consent to Subcontracts

844.202–2 Considerations.

(a)(14) Where other than lowest price is the basis for subcontractor selection, has the contractor adequately substantiated the selection as being fair, reasonable, and representing the best value to the Government?

Subpart 844.3—Contractors' Purchasing Systems Reviews

844.303 Extent of review.

(f) Policies and procedures pertaining to the use of VA-verified Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) and Veteran-Owned Small Businesses (VOSBs) and utilization in accordance with subpart 819.70 and the Veterans First Contracting Program;

(l) Documentation of commercial item determinations to ensure compliance with the definition of ''commercial item'' in FAR 2.101; and

(m) For acquisitions involving electronic parts, that the contractor has implemented a counterfeit electronic part detection and avoidance system to ensure that counterfeit electronic parts do not enter the supply chain.

Subpart 844.4—Subcontracts for Commercial Items and Commercial Components

844.402 Policy requirements.

(a)(3) Determine whether a particular subcontract item meets the definition of a commercial item. This requirement does not affect the contracting officer's responsibilities or determinations made under FAR 15.403–1(c)(3).

PART 845—GOVERNMENT PROPERTY

Sec.

Subpart 845.4—Title to Government Property

845.402 Title to contractor-acquired property.

845.402–70 Policy.

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702 and 48 CFR 1.301–1.304.

Subpart 845.4—Title to Government Property

845.402 Title to contractor-acquired property.

845.402–70 Policy.

(a) For other than firm-fixed-price contracts, contractor-acquired property items not anticipated at time of contract award, or not otherwise specified for delivery on an existing line item, shall, by means of a contract modification, be specified for delivery to the Government on an added contract line item. The value of such contractor-acquired property item shall be recorded at the original purchase cost. Unless otherwise noted by the contractor at the time of delivery to the Government, the placed-in-service date shall be the date of acquisition or completed manufacture, if fabricated.

(b) Following delivery and acceptance by the Government of contractor-acquired property items, if these items are to be retained by the contractor for continued use under a successor contract, these items become Government-furnished property (GFP). The items shall be added to the successor contract as GFP by contract modification.

(c) Individual contractor-acquired property items should be recorded in the contractor's property management system at the contractor's original purchase cost.

(d) All other contractor inventory that is excess to the needs of the contract shall be disposed of in accordance with FAR subpart 45.6.

[FR Doc. 2018–20183 Filed 9–17–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XG491

Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Flatfish'' 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 retention of ''other flatfish'' in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2018 ''other flatfish'' initial total allowable catch (ITAC) in the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 13, 2018, through 2400 hrs, 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 ''other flatfish'' ITAC in the BSAI is 3,400 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)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 ''other flatfish'' ITAC in the Bering Sea subarea of the BSAI has been reached. Therefore, NMFS is requiring that ''other flatfish'' in the BSAI be treated as prohibited species in accordance with § 679.21(b).

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 prohibiting retention of ''other flatfish'' 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 September 12, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: September 13, 2018.

Margo B. Schulze-Haugen,

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

[FR Doc. 2018–20249 Filed 9–13–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 181
Tuesday, September 18, 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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 101

[Docket ID OCC–2018–0020]

RIN 1557–AE45

Covered Savings Associations

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The OCC is inviting comment on a proposed rule to implement a new section of the Home Owners' Loan Act (HOLA). The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended HOLA to add a new section that allows a Federal savings association with total consolidated assets of $20 billion or less, as of December 31, 2017, to elect to operate as a covered savings association. A covered savings association has the same rights and privileges as a national bank and is subject to the same duties and restrictions as a national bank. A covered savings association retains its Federal savings association charter and existing governance framework. The new section of HOLA requires the OCC to issue rules that, among other things, establish streamlined standards and procedures for elections to operate as covered savings associations and clarify requirements for the treatment of covered savings associations.

DATES: Comments must be received on or before November 19, 2018.

ADDRESSES: You may submit comments to the OCC by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Covered Savings Associations'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov:''* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2018–0020'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2018–0020'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2018–0020'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov.* The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Charlotte Bahin, Senior Advisor for Thrift Supervision, 202–649–6281, Lazaro Barreiro, Director for Governance and Operational Risk Policy, 202–649–6550, Alison MacDonald, Special Counsel, 202–649–5490, Priscilla Benner, Attorney, 202–649–5490, Marta Stewart-Bates, Attorney, 202–649–5490, Frances C. Augello, Special Counsel, 202–649–5500, Demetria C. Hannah, Special Counsel, 202–649–5500, or Kevin S. Kirby, Attorney, 202–649–5500, Chief Counsel's Office, for persons who are deaf or hearing impaired, TTY, 202–649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 206 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), Public Law 115–174, 132 Stat. 1310, amended the Home Owners' Loan Act (HOLA) (12 U.S.C. 1461 *et seq.*) to add a new section 5A (12 U.S.C. 1464a) that allows a Federal savings association with total consolidated assets of $20 billion or less, as of December 31, 2017, to elect to operate as a covered savings association.

A covered savings association has the same rights and privileges as a national bank that has its main office situated in the same location as the home office of the covered savings association. A covered savings association is subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to such a national bank. However, a covered savings association retains its Federal savings association charter and continues to be treated as a Federal savings association for purposes of governance, including for purposes of procedures and

requirements governing incorporation and organization, procedures and requirements governing charter and bylaws (*e.g.,* form, amendments), board of director governance procedures and requirements (*e.g.,* elections, term of service), shareholder governance procedures and requirements *(e.g.,* meetings, voting requirements), and requirements governing distribution of dividends (*e.g.,* payment, prior approval, and other restrictions). A covered savings association also is treated as a Federal savings association for purposes of consolidation, merger, dissolution, conversion (including conversion to a stock bank or another charter), conservatorship, and receivership, and for other purposes determined by OCC regulation. A covered savings association may continue to operate any branch or agency that the covered savings association operates on the date an election to operate as a covered savings association takes effect. A covered savings association will continue to be treated as a covered savings association even if its assets exceed $20 billion after it makes an election.[1]

Section 5A of HOLA requires the OCC to issue rules to carry out that section. The OCC must issue rules that: (1) Establish streamlined standards and procedures that clearly identify required documentation and timelines for an election; (2) require a Federal savings association that makes an election to identify specific assets and subsidiaries held by the Federal savings association that do not conform to the requirements for national banks (''nonconforming assets and subsidiaries''); (3) establish a transition process for bringing the nonconforming assets and subsidiaries into conformance with the requirements for national banks and procedures for allowing a Federal savings association to submit an application to continue to hold nonconforming assets and subsidiaries after electing to operate as a covered savings association; (4) establish standards and procedures to allow a covered savings association to terminate an election after an appropriate period of time and to make a subsequent election after terminating an election; and (5) clarify requirements for the treatment of covered savings associations, including the provisions of law that apply to covered savings associations. Section 5A also gives the OCC the authority to issue rules as the Comptroller determines necessary in the interests of safety and soundness.

The OCC views section 5A of HOLA as a way to provide Federal savings associations with additional flexibility to adapt to new economic conditions and business environments without the cost and time involved in changing their charters.[2] This flexibility will allow Federal savings associations to better meet the needs of their communities.

For example, section 10(m) of HOLA requires a Federal savings association to maintain its status as a qualified thrift lender (QTL) by either holding a specified percentage of its assets in qualified thrift investments or qualifying as a domestic building and loan association as defined in the Internal Revenue Code.[3] Further, prior to the enactment of section 5A of HOLA, a Federal savings association would have been required to convert to a bank charter to pursue a business strategy involving greater commercial or consumer lending if it would have exceeded the investment limits in HOLA. The OCC has heard for a number of years that Federal savings associations would like to engage in additional activities (for example, additional commercial or small business lending and consumer lending) to serve their communities, but they cannot increase lending in those areas because of the statutory lending limits and limitations imposed on the operating strategies of Federal savings associations that are required to comply with QTL. In 2015, the OCC reported this information in written testimony to Congress.[4] The OCC noted that the charter conversion process can be time consuming and burdensome, particularly for smaller savings associations. At that time, Federal mutual savings associations faced an especially burdensome process, because they would have had to convert to the stock form of organization before converting to a national bank charter. As discussed in more detail later in this preamble, under the new section 5A of HOLA, a Federal savings association, whether in stock or mutual form, can adjust its business model without the additional burden and expense of changing charters.

As the supervisor of both national banks and Federal savings associations, the OCC is well-positioned to administer section 5A. OCC examination staff are familiar with the unique situations and business models of individual institutions and with national bank and Federal savings association laws.[5]

This proposed rule would implement section 5A in a manner that minimizes regulatory burden on Federal savings associations seeking to be treated as covered savings associations while ensuring that these Federal savings associations can continue to operate safely and soundly. The election process set out in the proposed rule is intended to be simple and streamlined. The proposed rule takes a similarly streamlined approach for the procedures and standards applicable to terminations of elections and to reelections.

The OCC also is mindful of the need to permit all OCC-supervised institutions to engage in the same activities to the extent permitted by different statutory frameworks. The proposed rule does not confer rights or privileges on covered savings associations that would not be available to similarly located national banks, except as required by section 5A of HOLA or specifically set out in the proposed rule. Under the proposed rule, covered savings associations would be required to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities, with appropriate lead-time, so that they do not operate, hold, or conduct subsidiaries, assets, or activities that would not be permissible for a national bank. Consistent with section 5A, the proposed rule would treat covered savings associations and national banks differently when necessary to allow a covered savings association to retain its Federal savings association charter and associated governance processes. To reduce unnecessary burden, the proposed rule also would allow covered savings associations to continue to use Federal savings association procedures rather than national bank procedures where the application of those procedures would not result in substantively different outcomes. For example, a covered savings association would be subject to the Federal savings association requirements for adjudicative proceedings under 12 CFR parts 108 and 109 rather than the national bank requirements under 12 CFR part 19.

II. Description of the Proposal

101.1 Authority and purposes. Paragraph (a) of this section provides that the proposed rule is issued pursuant to sections 3, 4, 5, and 5A of

[1] 12 U.S.C. 1464a(g).

[2] *See* Testimony of Acting Comptroller of the Currency Keith A. Noreika before the Committee on Banking, Housing, and Urban Affairs, United States Senate, June 22, 2017, at 22.

[3] 12 U.S.C. 1467a(m).

[4] *See* Written Statement of Toney Bland, Senior Deputy Comptroller for Midsize and Community Bank Supervision, Office of the Comptroller of the Currency, before the Committee on Banking, Housing and Urban Affairs, United States Senate, February 10, 2015, at 9–10.

[5] *Id.*

HOLA (12 U.S.C. 1462a, 1463, 1464, and 1464a), section 5239A of the Revised Statutes (12 U.S.C. 93a), and section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5412(b)(2)(B)).

Paragraph (b) of this section describes the purposes of the proposed rule. Those purposes are to establish standards and procedures for an election to operate as a covered savings association, to clarify the requirements that apply to covered savings associations, and to establish standards and procedures for terminations of elections and for reelections.

101.2 Definitions and computation of time. Paragraph (a) of this section sets out definitions for the proposed rule.

Paragraph (a)(1) of this section defines the term ''appropriate OCC supervisory office.'' As in 12 CFR 5.3(d), the appropriate OCC supervisory office is the OCC office responsible for supervision of a Federal savings association, as described in subpart A of 12 CFR part 4. The definition is intended to help Federal savings associations identify the office that can assist them with issues related to an election, a request to terminate, or a reelection.

Paragraph (a)(2) of this section defines the term ''covered savings association.'' This definition, consistent with the definition of the term in section 5A(a) of HOLA, refers to a Federal savings association that has made an election that is in effect in accordance with § 101.3(b) of the proposed rule.

Paragraph (a)(3) of this section defines the term ''effective date of the election'' as the date on which a Federal savings association's election to operate as a covered savings association takes effect pursuant to § 101.3(b) of the proposed rule.

Paragraph (a)(4) of this section defines the term ''nonconforming subsidiary, asset, or activity.'' When this term is applied to a covered savings association, it means a subsidiary, asset, or activity that is not permissible for a covered savings association or, if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a covered savings association. When applied to a covered savings association, this term includes an investment in a subsidiary or other entity if that investment is not permissible for a covered savings association. When this term is applied to a Federal savings association that has terminated an election to operate as a covered savings association, it means a subsidiary, asset, or activity that is not permissible for a Federal savings association, or if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a Federal savings association. When applied to a Federal savings association that has terminated an election to operate as a covered savings association, this term includes an investment in a subsidiary or other entity if that investment is not permissible for a Federal savings association.

Section 5A(f) of HOLA uses the term ''assets and subsidiaries.'' However, under section 5A(c)(2) of HOLA, a covered savings association would be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that apply to a similarly located national bank. As a result, a covered savings association's activities would be limited in ways that a Federal savings association's activities would not. For example, under 12 U.S.C. 1464(c)(4)(B) and 12 CFR 5.59, a Federal savings association can invest in a service corporation, but a national bank cannot. Some activities a Federal savings association may conduct in a service corporation (*e.g.,* acquiring real estate for development) are not permissible for a national bank.[6] Consistent with section 5A(c)(2) of HOLA, the proposed rule would require covered savings associations to cease those activities that would not be permissible for a national bank. As discussed below, the OCC proposes to establish the same transition process for discontinuing nonconforming activities as it does for divesting nonconforming assets and subsidiaries.

Paragraph (a)(5) of this section defines ''similarly located national bank'' to mean, with respect to a covered savings association, a national bank that has its main office situated in the same location as the home office of the covered savings association. For purposes of the proposed rule, the location of a national bank's main office is the home state of the national bank. The location of a covered savings association's home office is the home state of the covered savings association.

Paragraph (b) of this section provides that, for purposes of the proposed rule, the OCC will compute time in the same manner as set forth in 12 CFR 5.12. That section provides that, in computing a period of days, the OCC does not include the day of the act (in this case, the date the OCC receives a notice of election or termination) from which the period begins to run. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

101.3 Procedures and standard of review. Under section 5A(b) of HOLA, a Federal savings association with total consolidated assets of $20 billion or less as of December 31, 2017, may elect to operate as a covered savings association by submitting a notice to the Comptroller. The Federal savings association is deemed approved to operate as a covered savings association beginning 60 days after the Comptroller receives the notice, unless the Comptroller notifies the association that the association is not eligible.[7] This section of the proposed rule establishes streamlined standards and procedures that identify required documentation and timelines for an election to operate as a covered savings association. The proposed rule would establish procedures that are as simple and straightforward as possible.

Section 101.3(a)(1) of the proposed rule allows a Federal savings association that had total consolidated assets of $20 billion or less as of December 31, 2017, to make an election to operate as a covered savings association by submitting a notice to the appropriate OCC supervisory office. The OCC proposes to use the Consolidated Reports of Condition and Income (Call Report) submitted for the quarter ending December 31, 2017, to determine if the Federal savings association meets this threshold. Because section 5A of HOLA contemplates that ''a Federal savings association'' with a certain amount of assets ''as of December 31, 2017,'' may make an election, under the proposed rule, institutions that were not Federal savings associations as of December 31, 2017, are not eligible to operate as covered savings associations.

Under this approach, an institution that was a credit union, state savings association, or state bank on December 31, 2017, but that later converted to a Federal savings association charter, would not be eligible to make an election under the proposed rule. Similarly, a de novo Federal savings association chartered after December 31, 2017, would not be eligible to make an election to operate as a covered savings association. A Federal savings association in stock form would retain the option to convert directly to a national bank charter, but for institutions in mutual form, such as credit unions, state savings associations, or state savings banks, a national bank charter is not available without first

[6] 12 CFR 5.59(f)(5).

[7] The proposed rule also would allow the OCC to notify a Federal savings association that it is eligible before the full 60-day period has elapsed.

converting to stock form. The OCC invites comment on whether the option to elect to operate as a covered savings association should be limited to institutions that were Federal savings associations on December 31, 2017.

Paragraph (a)(1) of this section would require a Federal savings association to submit a notice to the appropriate OCC supervisory office. The appropriate OCC supervisory office has an established relationship with the Federal savings associations it supervises, and it is in regular quarterly contact with management of Federal savings associations. As a result, the supervisory office will be familiar with the condition and operations of a Federal savings association that submits a notice.

The OCC encourages management of Federal savings associations to contact the appropriate OCC supervisory office to determine whether it would be useful to meet before submitting a notice under this section. The OCC believes such meetings can be beneficial to the management of Federal savings associations considering operating as covered savings associations, particularly Federal savings associations that may operate, hold, or conduct nonconforming subsidiaries, assets, or activities or that are operating under outstanding enforcement actions or matters requiring attention. These informal conversations could help address potential issues before a Federal savings association submits a notice.

The proposed rule would require that a notice: Be signed by a duly authorized officer of the Federal savings association; identify each branch and agency that the Federal savings association will operate on the effective date of the election that has not been the subject of an application or notice under 12 CFR part 5; and identify and describe each nonconforming subsidiary, asset, or activity that the Federal savings association operates, holds, or conducts at the time it submits the notice, each of which must be divested, conformed, or discontinued pursuant to § 101.5.

The requirement for a signature of a duly authorized officer of the Federal savings association is intended to allow the Federal savings association to demonstrate that it has obtained any approval that may be required under its own internal procedures for making strategic decisions of this type.

The proposed rule would require that the notice identify branches and agencies that the Federal savings association will operate on the date an election takes effect, and that have not been the subject of an application or notice under 12 CFR part 5, in order to determine which branches and agencies are eligible to be grandfathered pursuant to section 5A(e) of HOLA and § 101.4(b) of the proposed rule. Federal savings associations are already required under 12 CFR part 5 to submit applications or notices to the OCC with respect to branches and agencies (for example, when establishing, acquiring, or relocating branches or establishing agencies). The proposed rule would only require a Federal savings association to identify branches or agencies for which the Federal savings association has not already submitted an application or notice. These are likely to be branches or agencies that are newly established at the time of an election under the proposed rule.

The proposed rule would require Federal savings associations to identify nonconforming subsidiaries, assets, and activities because these are the subsidiaries, assets, and activities the Federal savings association would need to divest, conform, or discontinue pursuant to section 5A(f)(3) of HOLA and § 101.5 of the proposed rule after an election takes effect. Consistent with section 5A(f)(2) of HOLA, the OCC would expect a Federal savings association to identify subsidiaries, assets, and activities operated, held, or conducted at the time it submits a notice of election. The OCC expects that the description of the subsidiaries, assets, and activities would specify whether an asset or activity is held or conducted by the Federal savings association itself or by a subsidiary. The description of these subsidiaries, assets, and activities should be sufficient to allow the OCC to understand the size of the subsidiaries or assets and the scope of the activities relative to the asset size or capital of the Federal savings association. However, given the possibility of fluctuations, the OCC understands that the value of a subsidiary, asset, or activity at any given point in time might not reflect its usual size or scope. The OCC invites comment on whether the proposed rule should specify metrics for determining the size or scope of a subsidiary, asset, or activity, and, if so, whether those metrics should reflect a specific point in time.

Under § 101.3(b) of the proposed rule, a Federal savings association's election to operate as a covered savings association would automatically take effect 60 days after the OCC receives a notice from the Federal savings association, unless the OCC notifies the Federal savings association that it is not eligible in accordance with paragraph (c). The OCC also could notify a Federal savings association that it is eligible to operate as a covered savings association before 60 days have elapsed. The proposed rule does not include a provision for written notification if an election takes effect by operation of law, but the OCC would expect to provide such notification as a matter of course. The OCC expects that such a notification would state that a Federal savings association is subject to the covered savings association laws, as described in § 101.4 of the proposed rule, once an election takes effect. Such a notification would have no impact on whether or when an election takes effect.

Section 101.3(c) of the proposed rule permits the OCC to notify a Federal savings association in writing that it is not eligible to make an election to operate as a covered savings association if the Federal savings association is not an ''eligible savings association'' as that term is defined in 12 CFR 5.3(g). Under the definition in 12 CFR 5.3(g), an eligible savings association is a Federal savings association that (1) is well capitalized as defined in 12 CFR 6.4; (2) has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (CAMELS); (3) has a Community Reinvestment Act (CRA) rating of ''outstanding'' or ''satisfactory,'' if applicable; (4) has a consumer compliance rating of 1 or 2 under the Uniform Interagency Consumer Compliance Rating System; and (5) is not subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive or, if subject to any such order, agreement, or directive, is informed in writing by the OCC that the savings association may be treated as an ''eligible savings association'' for purposes of 12 CFR part 5. Because the purposes of 12 CFR part 5 and the purposes of the proposed rule are different, the proposed rule specifies that a Federal savings association that is subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Act directive would not be eligible to elect to operate as a covered savings association unless the OCC informs it in writing that it is eligible for purposes of part 101 (that is, for purposes of the proposed rule).

The concept of an ''eligible savings association'' as described in 12 CFR 5.3(g) is well understood and relatively straightforward to apply. In the licensing context, an ''eligible savings association'' may receive expedited review of filings because it is generally the type of savings association that can operate safely and soundly. In the context of the proposed rule, a Federal

savings association that meets the definition of ''eligible savings association'' typically does not raise the types of concerns that would suggest it should not operate as a covered savings association.

The OCC invites comment on whether there are standards other than those in the definition of ''eligible savings association'' in 12 CFR 5.3(g) that would allow the OCC to determine, without imposing undue burden, whether a Federal savings association is eligible to operate as covered savings association. The OCC also invites comment on whether there are situations in which, or Federal savings associations for which, it would not be appropriate to use the definition of ''eligible savings association'' to make determinations about the eligibility of a Federal savings association to operate as covered savings associations. Additionally, the OCC invites comment on whether the rule should identify other factors for consideration when determining a Federal savings association's eligibility to operate as a covered savings association.

The proposed rule would not require a Federal savings association to amend its charter or bylaws or to obtain the approval of shareholders or members before submitting a notice to the OCC. The model Federal savings association charter allows a Federal savings association to pursue any lawful objectives of a Federal savings association chartered under section 5 of HOLA. Section 5A of HOLA permits covered savings associations to engage in activities that would be permissible for a national bank. Covered savings associations will continue to be Federal savings associations chartered under section 5 of HOLA, as neither the proposed rule nor the statute requires a charter conversion.

Nevertheless, management of a Federal savings association that is interested in submitting a notice to elect to operate as a covered savings association should review the Federal savings association's charter and bylaws, as well as any other applicable law, to determine whether an election will require shareholder or member approval or whether it should amend its charter or bylaws because the documents contain terms that are inconsistent with the rights and duties of a covered savings association.

101.4 Treatment of covered savings associations. Section 5A(c) of HOLA provides that a covered savings association has the same rights and privileges as a national bank that has the main office of the national bank situated in the same location as the home office of the covered savings association and is subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to such a national bank. Section 5A(d) of HOLA also specifies that a covered savings association is treated as a Federal savings association for the purposes of governance of the covered savings association, including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends, as well as for purposes of consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership. Section 5A(d)(3) gives the OCC the authority to identify by regulation other purposes for which a covered savings association will be treated as a Federal savings association. Within that general framework, section 5A(f)(5) of HOLA directs the OCC to clarify the requirements for the treatment of covered savings associations, including the provisions of law that apply to a covered savings association. Although, for many purposes, the regulations that apply to national banks are identical to the regulations that apply to Federal savings associations, there are provisions of Federal savings association law that are neither identical to national bank laws nor explicitly identified in section 5A(d) as purposes for which Federal savings association laws continue to apply to covered savings associations. For these provisions of law, the OCC seeks to clarify the legal framework that will apply while preserving the OCC's flexibility to address novel situations and unforeseen questions.

The proposed rule offers two alternatives to explain what it means for a covered savings association to have the rights and privileges of a similarly located national bank while being subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as a similarly located national bank.

The first alternative would require a covered savings association to comply with the same provisions of law that would apply to a similarly located national bank and would not require it to comply with the provisions of law that apply to Federal savings associations, except in specific areas identified in § 101.4(a)(2) of the proposed rule, such as governance (including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends), consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership. In these specific areas, the laws otherwise applicable to a Federal savings association will apply to a covered savings association.[8]

The first alternative would provide a framework for a covered savings association to understand the provisions of law that apply to it: That is, national bank provisions will apply, except where specifically set out in the proposed rule, and Federal savings association laws will not apply, except where specifically set out in the proposed rule. However, there may be circumstances where it would not be appropriate to apply a provision of national bank law to a covered savings association. Under the first alternative, unless that provision of national bank law is included in one of the Federal savings association categories, the OCC may not have the flexibility to decline to apply it to a covered savings association without amending the rule. The OCC invites comment on whether there are situations in which the first alternative would inappropriately apply provisions of national bank law to a covered savings association. The OCC also invites comment on whether the first alternative, if adopted, should include a reservation of authority to allow the OCC to determine that a particular provision of national bank law should not apply to covered savings associations. Would the framework of this alternative give covered savings associations and other interested persons sufficient notice of the provisions of law that do and do not apply to covered savings associations? Would the latitude provided to the OCC under a reservation of authority make this first alternative more workable?

The second alternative focuses on the activities that would be permissible for a covered savings association. It is based on the requirements for operating subsidiaries of national banks set out in 12 CFR 5.34(e). This alternative would provide that a covered savings association may engage in any activity that is permissible for a national bank to engage in as part of, or incidental to, the business of banking, or explicitly authorized by statute for a national bank, subject to the same authorization, terms, and conditions that would apply to a similarly located national bank, as determined by the OCC for purposes of the proposed rule. Like the first alternative, this second alternative would be subject to an exception for

[8] For convenience, this preamble refers to these areas as ''the Federal savings association categories.'' They are discussed in greater detail later in this preamble.

provisions of law in the Federal savings association categories.

The second alternative provides general guidance about the types of activities in which a covered savings association would be permitted to engage. Covered savings associations would be able to refer to OCC publications such as ''Activities Permissible for National Banks and Federal Savings Associations, Cumulative'' [9] to find activities that are permissible for national banks. The OCC's permissible activities document includes links to OCC advisory letters, interpretive letters, bulletins, and other resources that would help covered savings associations understand the authorization, terms, and conditions that apply to these permissible activities.

The second alternative is more narrowly tailored than the first alternative, and it preserves the OCC's authority to determine that a particular provision of national bank law does not apply to covered savings associations. However, it may be difficult for a covered savings association to determine whether a particular provision of law is considered an ''authorization,'' ''term,'' or ''condition'' that applies to a covered savings association if that provision is not otherwise discussed in an OCC publication.

The OCC invites comment on which of these alternatives would best clarify the requirements for the treatment of covered savings associations, including the provisions of law that apply to covered savings associations. Are there provisions of law that would not be clearly addressed by these alternatives? Are there situations in which these alternatives would not lead to an appropriate result?

Because section 5A(c) provides covered savings associations with the same rights and privileges as a similarly located national bank, subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to a similarly located national bank, both alternatives would allow a covered savings association to engage in activities to the same extent as a national bank. Except as provided in the proposed rule, a covered savings association would be permitted to engage in the same activities as a national bank, subject to the restrictions that would apply to a national bank rather than the restrictions that would apply to a Federal savings association.

Unlike national banks, Federal savings associations are required to comply with the QTL test,[10] which limits the majority of their activities and asset mix to those with a housing focus.[11] The QTL test is a defining distinction between the rights and privileges of a savings association and a national bank.[12] Following an election under section 5A, while it retains its charter, a covered savings association has all the same rights and privileges of, and is subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to, a similarly located national bank.[13] Although section 5A provides that a covered savings association continues to be treated as a Federal savings association for certain enumerated areas and purposes such as governance and distribution of dividends, none of these enumerated areas or purposes relate to the QTL test, the other limitations in section 5(c), or the lending restrictions of section 11(a). A covered savings association cannot logically exercise the rights and privileges conferred on it under section 5A (and have the activities and asset mix permitted to a national bank) while simultaneously being subject to the limitations of the QTL test, section 5(c), or section 11(a) lending restrictions. Accordingly, a covered savings association under section 5A is not subject to, among other things, the QTL test and the restrictions in 12 U.S.C. 1467a(m)(3)(B) for failing to meet the QTL test.

A similar analysis applies to the limits on aggregate amounts of loans secured by liens on nonresidential real property,[14] additional restrictions on loans to a single borrower,[15] other borrowing limitations,[16] and certain affiliate transaction requirements.[17] Because national banks are not subject to the duties, restrictions, penalties, liabilities, or conditions described in these provisions (and the proposed rule does not require covered savings associations to continue to comply with these provisions, as described later in this preamble), covered savings associations would not be subject to these provisions.

In order to clarify the provisions of law that apply to covered savings associations, the OCC also must identify the purposes for which a covered savings association will be treated as a Federal savings association. Section 5A of HOLA sets out specific categories of activities where Federal savings association laws apply. Those categories are governance of the covered savings association (including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends), consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership. The OCC can exercise its interpretive authority to determine which Federal savings association laws fall into each of those categories. The chart below shows examples of Federal savings association laws with which the OCC proposes to require covered savings associations to comply because these examples fall into the categories specifically created by section 5A. The OCC proposes that the statutory category for provisions relating to ''shareholders'' be construed to include provisions relating to the members of Federal mutual savings associations.

Statutory category	Provision of law
Incorporation	12 CFR 5.20. This section sets out requirements for organizing a national bank or Federal savings association, including for establishment as a legal entity. Although many aspects of this section are identical for national banks and Federal savings associations, where there are differences, the Federal savings association requirements would apply to a covered savings association.
Bylaws	12 CFR 5.21. This section sets out the requirements for Federal mutual savings associations when adopting or amending the charters or bylaws.

[9] October 2017, available at *https://www.occ.treas.gov/publications/publications-by-type/other-publications-reports/pub-other-activities-permissible-october-2017.pdf.*

[10] 12 U.S.C. 1467a(m).

[11] 12 U.S.C. 1467a(m)(3)(B).

[12] *See, generally,* Statement of Ellen Seidman, Director, Office of Thrift Supervision, before the Committee on Banking, Housing, and Urban Affairs, United States Senate, February 24, 1999. Other differences are, for example, a bar under section 11(a) of HOLA that prevents Federal savings associations from making loans to affiliates not engaged in activities permissible for a bank holding company under section 4(c) of the Bank Holding Company Act and other constraints on the amount of commercial lending.

[13] 12 U.S.C. 1464a(c).

[14] 12 U.S.C. 1464(c)(2)(B).

[15] 12 U.S.C. 1464(u) and 12 CFR part 32.

[16] 12 CFR 163.80.

[17] 12 U.S.C. 1468(a) and 12 CFR 223.72.

Statutory category	Provision of law
Bylaws	12 CFR 5.22. This section sets out the requirements for stock Federal savings associations when adopting or amending the charters or bylaws.
Board of directors; bylaws	12 CFR 145.121. This section requires Federal savings associations to indemnify directors, officers, and employees.
Board of directors	12 CFR 163.33. This section sets out requirements for the composition of the board of directors of a Federal savings association.
Board of directors	12 CFR 163.47. This section sets out requirements for employee pension plans of Federal savings associations, which may be amended or terminated by the board of directors.
Board of directors	12 CFR 163.200. This section sets expectations for the directors, officers, and employees of Federal savings associations, particularly as it relates to conflicts of interest.
Board of directors	12 CFR 163.201. This section sets expectations for the directors and officers of Federal savings associations, particularly as it relates to corporate opportunity.
Board of directors	12 CFR 163.172(c), (d), and (e). These provisions establish requirements for directors and management of Federal savings associations to oversee and keep records pertaining to derivatives transactions.
Board of directors	12 CFR 163.176. This section requires the boards of directors of Federal savings associations to participate in interest rate risk management.
Board of directors	12 CFR 160.130. This section prohibits directors and officers from receiving loan procurement fees.
Shareholders (members)	12 CFR part 144. This part sets out rules for communications between members of Federal mutual savings associations. The national bank laws relating to shareholder communications do not adequately address the unique needs and rights of Federal mutual savings association members.
Shareholders (members)	12 CFR part 169. This part sets out rules for proxies in the mutual context. The national bank laws relating to proxies do not adequately address the unique needs and rights of Federal mutual savings association members.
Distribution of dividends	12 CFR 5.55. This section sets out requirements for capital distributions by Federal savings associations, including distributions of dividends. The entire section would apply to a covered savings association.
Consolidation	12 CFR 5.33. This section sets out requirements for business combinations involving a national bank or Federal savings association, including consolidation. Although many aspects of this section are identical for national banks and Federal savings associations, where there are differences, the Federal savings association requirements would apply to a covered savings association.
Merger	12 CFR 5.33. This section sets out requirements for business combinations involving a national bank or Federal savings association, including mergers. Although many aspects of this section are identical for national banks and Federal savings associations, where there are differences, the Federal savings association requirements would apply to a covered savings association.
Dissolution	12 CFR 5.48. This section sets out requirements for voluntary liquidation of a national bank or Federal savings association. Although many aspects of this section are identical for national banks and Federal savings associations, where there are differences, the Federal savings association requirements would apply to a covered savings association.
Conversion	12 CFR 5.25. This section sets out requirements for conversion from a national bank or Federal savings association to a state bank or state savings association. Although many aspects of this section are identical for national banks and Federal savings associations, where there are differences, the Federal savings association requirements would apply to a covered savings association.
Conversion	12 CFR part 192. This part sets out requirements for savings associations converting from mutual to stock form.
Conservatorship	12 U.S.C. 1464(d) and 1821(c). The statutes set forth the authorities for the appointment of a conservator for Federal savings associations.
Receivership	12 U.S.C. 1464(d) and 1821(c). The statutes set forth the authorities for the appointment of a receiver for Federal savings associations.

These are the types of provisions that the OCC would expect to identify in guidance as governance-related provisions but would not expect to include in the text of the rule. The OCC invites comment on whether the particular provisions identified earlier in this preamble should be considered provisions of law that relate to governance (including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends), consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership and whether there are other provisions of law that the OCC should identify. The OCC also invites comment on whether these provisions should be specifically identified in the rule rather than in guidance.

Under section 5A(d)(3) of HOLA, the OCC also has the discretion to identify, by rule, additional areas where Federal savings association laws apply to covered savings associations. There are three categories of laws for which this treatment would be appropriate. The first category consists of laws that allow Federal mutual savings associations to conduct business as mutual institutions. For example, 12 CFR 163.74 sets out rules for mutual capital certificates. There is no comparable provision for national banks. Likewise, 12 CFR 163.76 prohibits a Federal savings association from selling equity securities in its offices, unless the sale involves stock sold to convert the savings association from the mutual to stock form. Sale of conversion stock in offices can promote a widespread distribution of conversion stock as required by the stock conversion regulations (*see* 12 CFR part 192) and help facilitate the success of a stock conversion. Because a similar rule does not exist for national banks, under the proposed rule, the requirements of 12 CFR 163.76 will continue to apply to the operations of a covered savings association in the event the savings association seeks to convert from the mutual to stock form of organization. The OCC proposes to continue to apply these types of Federal savings association requirements to covered savings associations.

The second area consists of rules that set out procedural and operational requirements for Federal savings associations but that do not result in

substantively different outcomes for Federal savings associations and national banks. The OCC proposes to apply Federal savings association rules that set forth procedural and operational requirements to covered savings associations, because Federal savings associations have already developed the policies, procedures, and expertise to comply with the Federal savings association procedures.

The following chart sets out rules that set forth procedural and operational requirements:

Applicable Federal savings association rule (applies to covered savings associations)	Comparable national bank rule (does not apply to covered savings associations)
12 CFR parts 108 and 109, adjudicative proceedings	12 CFR part 19.
12 CFR part 112, investigative proceedings	12 CFR part 19.
12 CFR part 151, recordkeeping and confirmation for securities transactions	12 CFR part 12.
12 CFR 5.56, inclusion of subordinated debt securities and mandatorily redeemable preferred stock of Federal savings associations as supplementary capital.	12 CFR 5.47.
12 CFR 5.45, increases in permanent capital	12 CFR 5.56.
12 CFR part 168, security procedures	12 CFR part 21, subpart A.

Finally, the OCC proposes to apply Federal savings association provisions where there is a specific Federal savings association rule with no corresponding specific national bank rule, but the Federal savings association rule sets out requirements that are consistent with supervisory expectations for national banks or is substantially similar to an interagency rule. For example, 12 CFR part 162 implements a statutory requirement in HOLA that requires Federal savings associations to use generally accepted accounting principles. Pursuant to the Federal Deposit Insurance Act at 12 U.S.C. 1831m and its implementing regulation at 12 CFR 363, all insured depository institutions are required to use generally accepted accounting principles. Similarly, 12 CFR 163.170(c) sets out expectations for maintenance of records with which the OCC also would expect a national bank to comply as a matter of course. The proposed rule also would treat covered savings associations as Federal savings associations for purposes of 12 CFR part 128, which sets out nondiscrimination requirements, and 12 CFR 163.27, which prohibits inaccurate or misrepresentative advertising.

The OCC invites comment on whether any of the provisions of Federal savings association law proposed earlier in this preamble to be applicable to covered savings associations should not apply to covered savings associations. The OCC also invites comment on whether the OCC should exercise its discretion under section 5A(d)(3) of HOLA to identify in this rule additional areas in which Federal savings association laws, rather than national bank laws, should apply to covered savings associations.

The OCC recognizes that the areas described earlier in this preamble may not be the only areas where it would be appropriate to apply provisions of Federal savings association laws to covered savings associations. Novel and unforeseen situations may arise in which it would be appropriate to apply a provision of Federal savings association law not identified earlier in this preamble to a covered savings association. The OCC solicits comment on whether it would be helpful to include a mechanism in this rule that would allow the OCC, in the future, to identify additional provisions of Federal savings association law that apply to covered savings associations, without amending this rule. Such a mechanism might consist of publishing an interpretive letter or updating a particular OCC publication.

In areas not specifically described earlier in this preamble, the proposed rule contemplates that national bank laws would apply to a covered savings association. For example, a covered savings association seeking to establish a de novo branch or close an existing branch would be subject to the statutes and regulations that govern the establishment or closing of a national bank branch.[18] Similarly, the requirement for employment agreements is not an area identified earlier in this preamble, so the Federal savings association rules in 12 CFR 163.39 would not apply.

The proposed rule also would require a covered savings association to comply with national bank law with respect to subsidiaries. Section 5A(f)(2) of HOLA directs the OCC to issue rules that require Federal savings associations making an election to identify ''specific assets and subsidiaries'' that do not conform to the requirements for assets and subsidiaries of a national bank. Section 5A(f)(3) requires that the OCC's rules establish a transition process for bringing these assets and subsidiaries into conformance with the requirements for a national bank. This suggests that Congress may have intended to prohibit covered savings associations from retaining assets or subsidiaries, such as service corporations, in which a national bank would not be authorized to hold, operate, or invest. Consequently, the proposed rule would require a covered savings association to comply with national bank laws for purposes of forming new subsidiaries. Under § 101.4(a)(1) of the proposed rule, 12 CFR 5.34, 5.35, and 5.39, which respectively set out requirements for the formation of operating subsidiaries, bank service companies, and financial subsidiaries by national banks, would apply to covered savings associations. Similarly, 12 CFR 5.36, which addresses other equity investments by national banks, would apply to covered savings associations. Because 12 CFR 5.59, addressing Federal savings association service corporations, is not listed in § 101.4(a)(2) as a provision of Federal savings association law that continues to apply to covered savings associations, 12 CFR 5.59 would not apply.

Service corporations of Federal savings associations have been authorized to engage in a range of activities. Some of those activities are permissible for a national bank and some are not. Under the proposed rule, both subsidiaries and those activities conducted in a subsidiary that are impermissible for a national bank would be impermissible for a covered savings association. However, the OCC recognizes that a prohibition on operating a service corporation could have a significant effect on a covered savings association. The OCC invites comment on whether the rule should allow covered savings associations to continue to operate a service corporation, and under what conditions, if the service corporation is engaged

[18] See the discussion of section 5A(e) of HOLA later in this preamble, which allows a covered savings association to continue to operate branches it operated on the date its election is approved.

only in activities that would be permissible for a national bank.

The proposed rule would not apply section 5(i)(4) of HOLA to covered savings associations. Section 5(i)(4) of HOLA provides that Federal savings banks chartered prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under section 5 to the degree they were permitted to do so as a Federal savings bank prior to October 15, 1982.[19] In addition, any Federal savings bank in existence on August 9, 1989, that had been formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity to the degree it was authorized to do so as a mutual savings bank under State law. Some of these investments and activities, although permissible for certain Federal savings associations, would not be permissible for a national bank. The proposed rule would not apply section 5(i)(4) of HOLA (or the implementing regulations at 12 CFR part 143) to a covered savings association, meaning that a Federal savings association with investments and activities grandfathered under that section would be required to divest any of those investments and discontinue any of those activities that would not be permissible for a national bank.

The proposed rule would require a covered savings association to comply with the national bank public welfare investment limits rather than the Federal savings association community development limits. National banks are subject to a public welfare investment limit of 15 percent of their capital and surplus, consistent with 12 U.S.C. 24 (Eleventh) and 12 CFR part 24. The community development investment limits for Federal savings associations are set out in 12 CFR 160.36 (less than or equal to the greater of 1 percent of the association's capital or $250,000); section 5(c)(3)(A) of HOLA (12 U.S.C. 1464(c)(3)(A)) and 12 CFR 160.30, as interpreted by the Office of Thrift Supervision's May 10, 1995, Letter Regarding Community Development investments (aggregate community development loans and equity investments may not exceed 5 percent of the association's total assets, and, within that limitation, the association's aggregate equity investments may not exceed 2 percent of its total assets); and 12 CFR 5.59 (allowing the association to invest up to 3 percent of its assets in service corporations but providing that any amount exceeding 2 percent must serve ''primarily community, inner-city, or community development purposes''). If a Federal savings association uses all or a portion of the investment limits permitted under the three legal authorities, it is possible that its aggregate community development investments would exceed the investment limits for national banks. As a result, applying national bank limitations to covered savings associations for purposes of public welfare and community development investments could require a Federal savings association that elects to operate as a covered savings association to divest some of its community development investments.[20] Divesting community development investments could have a negative impact on a covered savings association's community, and divestment may make it more difficult for the covered savings association to meet its requirements under the CRA. Given these potential consequences, the OCC invites comment on whether covered savings associations should be treated as Federal savings associations for purposes of public welfare and community development investments.

Paragraph (b) of § 101.4 of the proposed rule provides that a covered savings association may continue to operate any branch or agency that the covered savings association operated on the effective date of the election. This provision implements section 5A(e) of HOLA.

Section 5A(g) of HOLA provides that a covered savings association can continue to operate as a covered savings association, even if its total consolidated assets grow to more than $20 billion. Although this principle is not explicitly set out in the proposed rule, the OCC would apply it when supervising covered savings associations.

101.5 Nonconforming subsidiaries, assets, and activities. This section establishes a transition process for bringing nonconforming subsidiaries, assets, and activities into conformance with the requirements for national banks.

Paragraph (a) of § 101.5 would require a covered savings association to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities at the earliest time that prudent judgment dictates but not later than two years after the effective date of an election. This requirement is consistent with paragraphs (2) and (3) of section 5A(f) of HOLA, which set out an expectation that covered savings associations will bring assets and subsidiaries that do not conform to the requirements for national banks into conformance with the requirements for national banks.

In keeping with the goal of maintaining a level playing field among OCC-supervised institutions, the proposed rule would require a covered savings association to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities at the earliest time prudent judgment dictates. Recognizing that circumstances may occasionally dictate that immediate divestment, conformance, or discontinuance is not prudent, the proposed rule would provide up to two years for such action. The two-year period for divesting, conforming, or discontinuing nonconforming subsidiaries, assets, and activities is the same period that the OCC would generally allow for a Federal savings association converting to a national bank. This period should, in most cases, provide a covered savings association with sufficient lead-time to minimize potential undue financial harm from divesting, conforming, or discontinuing nonconforming subsidiaries, assets, and activities. This period also is intended to be short enough to ensure that covered savings associations are not allowed to gain an advantage by holding or operating assets or subsidiaries or conducting activities that would not be permissible for a national bank. The OCC invites comment on whether a different period, such as the more general ''reasonable time'' standard set out in the conversion rules at 12 CFR 5.24, should apply.

Paragraph (a) of this section also provides that the OCC may require a covered savings association to submit a plan to divest, conform, or discontinue a nonconforming subsidiary, asset, or activity. Such a plan would assist OCC supervisory staff in assessing compliance with the proposed rule.

Paragraph (b) of this section would allow the OCC to grant a covered savings association extensions of not more than two years each up to a maximum of eight years if the OCC determines that: (1) The covered savings association has made a good faith effort to divest, conform, or discontinue the

[19] These institutions also receive grandfathered treatment under section 18(m) of the Federal Deposit Insurance Act (12 U.S.C. 1828(m)).

[20] For example, a national bank with total consolidated assets of $250 million would be subject to a public welfare investment limit of $4,500,000 (15 percent of its capital and surplus if capital is 12 percent). A Federal savings association of the same size would be permitted to invest $300,000 under 12 CFR 160.63, $5,000,000 under 12 CFR 160.30, and $2,500,000 under 12 CFR 5.59, for a total of $12,300,000. If that Federal savings association elected to become a covered savings association, it would be required to divest $7,800,000 of its community development investments to comply with the public welfare investment limit for national banks.

nonconforming subsidiaries, assets, or activities; (2) divestiture, conformance, or discontinuance would have a material adverse financial effect on the covered savings association; and (3) retention or continuation of the nonconforming subsidiaries, assets, or activities is consistent with the safe and sound operation of the covered savings association. This paragraph is intended to provide the OCC with flexibility where a covered savings association, despite its best efforts, is unable to divest or conform assets or discontinue activities within the two-year period. For example, in cases where a covered savings association has a service corporation that owns nonconforming real estate in a market experiencing a significant and prolonged lack of demand, the OCC could grant an extension to allow market conditions to improve rather than requiring the covered savings association to sell the real estate within two years and take a loss on the property, provided the standards set forth in paragraph (b) are satisfied. The proposed rule limits the number of extensions to ensure that a covered savings association cannot retain or continue a nonconforming subsidiary, asset, or activity for more than 10 years past the effective date of an election. The 10-year period in the proposed rule is consistent with the 10-year limitation on possession of OREO by national banks under 12 U.S.C. 29. The limitation is intended to ensure that covered savings associations do not have the ability to retain or continue indefinitely subsidiaries, assets, or activities that would not be permissible for a national bank.

The OCC invites comment on whether there are any situations in which it would be appropriate for a covered savings association to retain a nonconforming subsidiary or asset or continue a nonconforming activity for longer than 10 years. What characteristics do these subsidiaries, assets, or activities have that would make it appropriate for them to be treated differently than other nonconforming subsidiaries, assets, or activities (for example, would conforming result in particularly severe adverse consequences)? If the rule permits a subsidiary, asset, or activity to be retained or continued for longer than 10 years, should the OCC limit the ability of a covered savings association to expand the subsidiary, asset, or activity?

Paragraph (c) of this section of the proposed rule provides that Federal savings association law would continue to apply to nonconforming subsidiaries, assets, and activities during the period before the covered savings association divests, conforms, or discontinues the subsidiary, asset, or activity. This provision is intended to clarify the treatment of nonconforming subsidiaries, assets, and activities during the transition period.

101.6 Termination. This section would establish standards and procedures to allow a covered savings association to terminate an election after an appropriate period of time.

Under § 101.6(a) of the proposed rule, a covered savings association may request to terminate an election after an appropriate period of time, as determined by the OCC. The OCC would generally view an appropriate period of time to be relatively soon after an election takes effect (for example, 60 or 90 days). However, the OCC might determine that a longer period of time is appropriate where there is evidence that a covered savings association is attempting to use a termination to evade the requirements or purposes of section 5A of HOLA, such as the requirement to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities.

Paragraph (b) of this section establishes procedures for terminating an election that are intended to be the mirror image of the procedures for making an election, with some exceptions noted below. As with an election, a covered savings association that wishes to terminate an election would be required to notify the OCC of the termination in writing. The notice would need to be signed by a duly authorized officer. A covered savings association would also be required to provide the OCC with a list of nonconforming subsidiaries, assets, and activities—that is, subsidiaries, assets, and activities (*e.g.,* investments in excess of HOLA limits) that would not be permissible for a Federal savings association. The same effective date timelines and requirements would apply to a request for termination as apply to a notice of election. The OCC could notify a covered savings association that it is not eligible to terminate an election if the covered savings association is not an ''eligible savings association'' within the meaning of 12 CFR 5.3(g).

A savings association terminating an election would have the same period of time after submitting a notice of termination to divest, conform, or discontinue nonconforming subsidiaries, assets and activities. Generally, this period of time would not exceed two years, but a savings association could request extensions of this time in the manner described in § 101.5 of the proposed rule. A Federal savings association that has terminated its election would not be permitted to retain or continue any subsidiaries, assets, or activities that would be permissible for a national bank but not for a Federal savings association. This includes lending activities that would cause the savings association to violate the QTL test.

Unlike an election, a covered savings association wishing to terminate an election would not be required to identify branches or agencies in operation at the time of termination.

Paragraph (c) of this section specifies that, once a termination takes effect, a Federal savings association is subject to the same provisions of law that apply to other Federal savings associations that are not covered savings associations.

101.7 Reelection. This section allows a covered savings association to make a subsequent election after terminating an election.

Under the proposed rule, a Federal savings association that wishes to make a subsequent election after terminating a previous election would be subject to the same requirements as a Federal savings association making an election for the first time.

However, a Federal savings association that previously made and terminated an election to operate as a covered savings association would be required to wait five years after the termination before making a subsequent election. The purpose of this cooling-off period is to prevent institutions from taking advantage of a potential overlap between transition periods for divesting nonconforming subsidiaries and assets and discontinuing nonconforming assets. Under the proposed rule, the OCC has the authority to waive the five-year period for good cause.

101.8 Evasion. This section of the proposed rule provides that the OCC may disapprove a notice of election, termination, or reelection if the OCC has reasonable cause to believe the notice is made for the purpose of evading § 101.5 of the proposed rule, including as that section applies to a termination. For example, the OCC might disapprove a covered savings association's notice of termination if it determined the covered savings association was attempting to terminate to take unfair advantage of an overlap between the period to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities provided for an election and the period to divest, conform, or discontinue nonconforming subsidiaries, assets, and activities provided for a termination.

III. Request for Comments

The OCC encourages comment on any aspect of this proposal and especially on those issues noted in this preamble.

IV. Regulatory Analysis

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* (RFA), requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of $550 million or less and trust companies with total revenue of $38.5 million or less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 886 small entities, of which 258 are Federal savings associations.[21] Because the proposed rule does not contain any new recordkeeping, reporting, or compliance requirements, we anticipate that it will not impose costs on OCC-supervised institutions unless they elect to operate as a covered savings association.[22] Therefore, the OCC certifies that the proposed rule, if implemented, would not have a significant economic impact on a substantial number of OCC-supervised small entities.

Unfunded Mandates Reform Act of 1995

Consistent with the UMRA, our review considers whether the mandates imposed by the proposed rule may result in an expenditure of $100 million or more by state, local, and tribal governments, or by the private sector, in any one year. The proposed rule does not impose new mandates. Therefore, we conclude that the proposed rule will not result in an expenditure of $100 million or more annually by state, local, and tribal governments, or by the private sector.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995,[23] the OCC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid OMB control number. The OCC has submitted the information collection requirements imposed by this proposed rule to OMB for review.

A Federal savings association seeking to operate as a covered savings association would be required under § 101.3(a) to submit a notice making an election to the appropriate OCC supervisory office that: (1) Is signed by a duly authorized officer of the Federal savings association; (2) identifies the branches and agencies that will be in operation on the effective date of the election that have not been the subject of an application or notice under 12 CFR part 5; and (3) identifies and describes any nonconforming subsidiaries, assets, or activities that the Federal savings association holds, operates, or conducts at the time its submits its notice.

Under § 101.5(a), the OCC may require a covered savings association to submit a plan to divest, conform, or discontinue a nonconforming subsidiary, asset, or activity.

A covered savings association may submit a notice to terminate its election to operate as a covered savings association under § 101.6 using similar procedures to those for an election. In addition, after a period of five years, a Federal savings association that has terminated its election to operate as a covered savings association may submit a notice under § 101.7 to reelect using the same procedures used for its original election.

Title: Covered Savings Association Notice.

OMB Control No.: To be assigned by OMB.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit organizations.

Election, Termination, Reelection:

Estimated Number of Respondents: 295.

Estimated Burden per Respondent: 2 hours.

Estimated Total Annual Burden: 590 hours.

Plan to Divest:

Estimated Number of Respondents: 25.

Estimated Burden per Respondent: 2 hours.

Estimated Total Annual Burden: 50 hours.

Total Annual Burden: 640 hours.

In addition, the OCC will file a nonmaterial change at the final rule stage to amend its Licensing Manual Collection (OMB Control No. 1557–0014) to increase the respondent count to reflect additional filings from Federal savings associations.

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the collections 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 collections 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.

Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act),[24] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the OCC will consider, consistent with the principles of safety and soundness and the public interest: (1) Any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions and customers of depository institutions, and (2) the benefits of the proposed rule. The OCC requests comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and their customers, and the benefits of the proposed rule that the OCC should consider in determining the effective date and administrative compliance requirements for a final rule.

List of Subjects in 12 CFR Part 101

Administrative practice and procedure, Assets, Reporting and recordkeeping requirements, Savings associations.

[21] We base our estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), we count the assets of affiliated financial institutions when determining if we should classify an OCC-supervised institution a small entity. We use December 31, 2017, to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

[22] We believe that costs associated with electing to be treated as a covered savings association will be minimal and that Federal savings associations will only choose to be treated as a covered savings associations if the benefits outweigh the costs.

[23] 44 U.S.C. 3501 *et seq.*

[24] 12 U.S.C. 4802(a).

Authority and Issuance

■ For the reasons set forth in the preamble, and under the authority of 12 U.S.C. 93a and 5412(b)(2)(B), chapter I of title 12 of the Code of Federal Regulations is proposed to be amended by adding Part 101 as follows:

PART 101—COVERED SAVINGS ASSOCIATIONS

Secs.

Authority: 12 U.S.C. 93a, 1462a, 1463, 1464, 1464a, and 5412(b)(2)(B).

§ 101.1 Authority and purposes.

(a) *Authority.* This part is issued pursuant to sections 3, 4, 5, and 5A of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1462a, 1463, 1464, and 1464a), section 5239A of the Revised Statutes (12 U.S.C. 93a), and section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5412(b)(2)(B)).

(b) *Purposes.* This part establishes standards and procedures for a Federal savings association to elect to operate as a covered savings association pursuant to section 5A of the HOLA and clarifies the requirements for the treatment of covered savings associations. It also establishes standards and procedures to terminate an election and to reelect to operate as a covered savings association.

§ 101.2 Definitions and computation of time.

(a) *Definitions.* As used in this part:

(1) *Appropriate OCC supervisory office* means the OCC office that is responsible for the supervision of a Federal savings association, as described in subpart A of 12 CFR part 4.

(2) *Covered savings association* means a Federal savings association that has made an election that is in effect in accordance with § 101.3(b).

(3) *Effective date of the election* means, with respect to a Federal savings association, the date on which the Federal savings association's election to operate as a covered savings association takes effect pursuant to § 101.3(b).

(4) *Nonconforming subsidiary, asset, or activity:*

(i) With respect to a covered savings association:

(A) Means any subsidiary, asset, or activity that is not permissible for a covered savings association or, if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a covered savings association; and

(B) Includes an investment in a subsidiary or other entity that is not permissible for a covered savings association; and

(ii) With respect to a Federal savings association that has terminated an election to operate as a covered savings association:

(A) Means any subsidiary, asset, or activity that is not permissible for a Federal savings association or, if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a Federal savings association; and

(B) Includes an investment in a subsidiary or other entity that is not permissible for a Federal savings association.

(5) *Similarly located national bank* means, with respect to a covered savings association, a national bank that has its main office situated in the same location as the home office of the covered savings association.

(b) *Computation of time.* The OCC will compute a period of days for purposes of this part in accordance with 12 CFR 5.12.

§ 101.3 Procedures and standard of review.

(a) *Notice*—(1) *Submission.* A Federal savings association that had total consolidated assets of $20 billion or less as of December 31, 2017, as reported on the Federal savings association's Consolidated Reports of Condition and Income for December 31, 2017, may make an election to operate as a covered savings association by submitting a notice to the appropriate OCC supervisory office.

(2) *Contents.* The notice shall:

(i) Be signed by a duly authorized officer of the Federal savings association;

(ii) Identify each branch or agency that the Federal savings association operates or will operate on the effective date of the election that has not been the subject of an application or notice under 12 CFR part 5; and

(iii) Identify and describe each nonconforming subsidiary, asset, or activity that the Federal savings association operates, holds, or conducts at the time it submits the notice, each of which must be divested, conformed, or discontinued pursuant to § 101.5.

(b) *Effective date of the election*—(1) *In general.* An election to operate as a covered savings association shall take effect on the date that is 60 days after the date on which the OCC receives the notice submitted under paragraph (a) of this section, unless the OCC notifies the Federal savings association that it is not eligible in accordance with paragraph (c) of this section.

(2) *Earlier notice.* Notwithstanding paragraph (b)(1) of this section, the OCC may notify a Federal savings association in writing prior to the expiration of 60 days that it is eligible to make an election, and the election shall take effect on the date the OCC so notifies the Federal savings association.

(c) *Federal savings association not eligible.* Prior to the expiration of 60 days after the date on which the OCC receives the notice submitted under paragraph (a) of this section, the OCC may notify a Federal savings association in writing that it is not eligible to make an election to operate as a covered savings association pursuant to this part if the Federal savings association is not an eligible savings association as that term is defined in 12 CFR 5.3(g). If the Federal savings association is subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive, the Federal savings association is not eligible to make an election to operate as a covered savings association unless the OCC informs the Federal savings association in writing that it may be treated as an eligible savings association for purposes of this part.

§ 101.4 Treatment of covered savings associations.

(a) *In general*—

[OPTION A: (1) *Treatment as a national bank.* Except as provided in this section, a covered savings association shall comply with the same provisions of law that would apply to a similarly located national bank and shall not be required to comply with the provisions of law that apply to Federal savings associations.]

[OPTION B: (1) *National bank activities.* Except as provided in this section, a covered savings association may engage in any activity that is permissible for a similarly located national bank to engage in as part of, or incidental to, the business of banking, or explicitly authorized by statute for a national bank, subject to the same authorization, terms, and conditions that would apply to a similarly located national bank, as determined by the OCC for purposes of this part.]

(2) *Treatment as a Federal savings association.* A covered savings association shall continue to comply with the provisions of law that apply to Federal savings associations for purposes of:

(i) Governance (including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends);

(ii) Consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership;

(iii) Provisions of law applicable only to Federal mutual savings associations;

(iv) Offers and sales of securities at an office of a Federal savings association;

(v) Inclusion of subordinated debt securities and mandatorily redeemable preferred stock as Federal savings association supplementary (tier 2) capital;

(vi) Increases in permanent capital of a Federal stock savings association;

(vii) Rules of practice and procedure in adjudicatory proceedings;

(viii) Rules for investigative proceedings and formal examination proceedings;

(ix) Removals, suspensions, and prohibitions where a crime is charged or proven;

(x) Security procedures;

(xi) Maintenance of records and recordkeeping and confirmation requirements for securities transactions;

(xii) Nondiscrimination; and

(xiii) Advertising.

(b) *Existing branches.* A covered savings association may continue to operate any branch or agency that the covered savings association operated on the effective date of the election.

§ 101.5 Nonconforming subsidiaries, assets, and activities.

(a) *Divestiture, conformance, or discontinuation.* A covered savings association shall divest, conform, or discontinue a nonconforming subsidiary, asset, or activity at the earliest time that prudent judgment dictates but not later than two years after the effective date of the election. The OCC may require a covered savings association to submit a plan to divest, conform, or discontinue a nonconforming subsidiary, asset, or activity.

(b) *Extension.* The OCC may grant a covered savings association extensions of not more than two years each up to a maximum of eight years if the OCC determines that:

(1) The covered savings association has made a good faith effort to divest, conform, or discontinue the nonconforming subsidiary, asset, or activity;

(2) Divestiture, conformance, or discontinuation would have a material adverse financial effect on the covered savings association; and

(3) Retention or continuation of the nonconforming subsidiary, asset, or activity is consistent with the safe and sound operation of the covered savings association.

(c) *Applicable law.* Until a covered savings association divests, conforms, or discontinues a nonconforming subsidiary, asset, or activity, the nonconforming subsidiary, asset, or activity shall continue to be subject to the same provisions of law that applied to the nonconforming subsidiary, asset, or activity on the day before the effective date of the election.

§ 101.6 Termination.

(a) *Termination.* A covered savings association may terminate its election to operate as a covered savings association, after an appropriate period of time as determined by the OCC, by submitting a notice to the appropriate OCC supervisory office.

(b) *Procedures.* A covered savings association wishing to terminate its election shall comply with, and shall be subject to, the provisions of §§ 101.2, 101.3, and 101.5, except that:

(1) The provisions of §§ 101.3 and 101.5 shall be applied by substituting ''covered savings association'' for ''Federal savings association'' and ''Federal savings association'' for ''covered savings association'' each place those terms appear in those sections;

(2) Section 101.3(a)(1) and (2)(ii) shall not apply; and

(3) Sections 101.3 and 101.5 shall be applied by substituting ''effective date of the termination'' for ''effective date of the election.''

(c) *Applicable law.* On and after the effective date of the termination, a Federal savings association that has terminated its election to operate as a covered savings association shall be subject to the same provisions of law as a Federal savings association that has not made an election under this part.

§ 101.7 Reelection.

(a) *Reelection.* A Federal savings association that has terminated its election to operate as a covered savings association may submit a notice to reelect to operate as a covered savings association, if at least five years have elapsed since the effective date of the termination. Upon determining that good cause exists, the OCC may permit a Federal savings association to reelect to operate as a covered savings association prior to the expiration of the five-year period.

(b) *Procedures and treatment.* A Federal savings association reelecting to operate as a covered savings association shall comply with, and shall be subject to, the provisions of this part as if it were making an election for the first time.

§ 101.8 Evasion.

The OCC may disapprove any notice submitted pursuant to this part if the OCC has reasonable cause to believe the notice is made for the purpose of evading § 101.5, including as that section applies to a covered savings association terminating an election.

Dated: September 10, 2018.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2018–19955 Filed 9–17–18; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0796; Product Identifier 2018–NM–104–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by reports of drainage holes on the belly fairing forward and middle access panels being obstructed with sealant. This proposed AD would require inspecting for and removing all sealant blocking the drainage holes on the belly fairing forward and middle access panels. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 2, 2018.

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

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

p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2018–0796; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0796; Product Identifier 2018–NM–104–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 NPRM.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2018–14, dated May 1, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

> Bombardier Aerospace (BA) has informed Transport Canada that the drainage holes on the belly fairing forward and middle access panels may be obstructed with sealant. The purpose of the drainage holes is to allow for drainage of a limited quantity of fluids due to any leaks, should they occur. This condition, if not corrected, may prevent the timely detection of fluid leakage that could lead to the accumulation of flammable fluids/vapors, beyond the design capacity of the belly fairing venting provisions [which could ignite if an ignition source (*i.e.,* spark, static discharge, heat, etc.) is present].
>
> This [Canadian] AD is issued to mandate the removal of all sealant blocking the drainage holes on the belly fairing forward and middle access panels.

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–2018–0796.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information for Bombardier Model BD–700–1A10 airplanes.

- Service Bulletin 700–53–051, dated May 17, 2017.
- Service Bulletin 700–53–6009, dated May 17, 2017.

Bombardier, Inc., has issued the following service information for Bombardier Model BD–700–1A11 airplanes.

- Service Bulletin 700–1A11–53–026, dated May 17, 2017.
- Service Bulletin 700–53–5010, dated May 17, 2017.

This service information describes procedures for inspecting for and removing sealant blocking the drainage holes on the belly fairing forward and middle access panels. These documents are distinct since they apply to different airplane models and configurations. 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

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 the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 376 airplanes of U.S. registry.

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

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510 per airplane	$0	$510	$191,760

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):

Bombardier, Inc.: Docket No. FAA–2018–0796; Product Identifier 2018–NM–104–AD.

(a) Comments Due Date

We must receive comments by November 2, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9001 through 9707 inclusive, 9709 through 9717 inclusive, 9719 through 9726 inclusive, 9728, 9730, 9732 through 9734 inclusive, 9736 through 9740 inclusive, 9742 through 9745 inclusive, 9749, 9751, 9757, and 9998.

(d) Subject

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

(e) Reason

This AD was prompted by reports of drainage holes on the belly fairing forward and middle access panels being obstructed with sealant. We are issuing this AD to address fluid leakage that could lead to the accumulation of flammable fluids/vapors, beyond the design capacity of the belly fairing venting provisions, which could ignite if an ignition source (*i.e.,* spark, static discharge, heat, etc.) is present.

(f) Compliance

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

(g) Sealant Removal

Within 375 flight hours or 12 months, whichever occurs first, after the effective date of this AD, do a general visual inspection for and remove all sealant blocking the drainage holes on the belly fairing forward and middle access panels, in accordance with the Accomplishment Instructions of the applicable service information listed in Figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) of this AD – *Service bulletins*

Airplane Model	Bombardier Service Bulletin	Issue Date
BD-700-1A10	700-53-051	May 17, 2017
BD-700-1A10	700-53-6009	May 17, 2017
BD-700-1A11	700-1A11-53-026	May 17, 2017
BD-700-1A11	700-53-5010	May 17, 2017

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design

Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2018–14, dated May 1, 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–2018–0796.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516 228 7323; fax 516 794 5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane 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 September 7, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–20098 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0833; Product Identifier 2018–CE–031–AD]

RIN 2120–AA64

Airworthiness Directives; Weatherly Aircraft Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Weatherly Aircraft Company (Weatherly) Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes. This proposed AD was prompted by reports of fatigue cracking of the center wing and outer wing spar hinge brackets due to corrosion pitting. This proposed AD would require repetitive inspections of the wing hinge brackets, pins, and wing spar structure with repair or replacement of parts as necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 2, 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 Weatherly Aircraft Company, 2034 West Potomac Avenue, Chicago, Illinois 60622–3152; telephone: (424) 772–1812; email: *garybeck@cox.net.* You may review copies of the referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0833; 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: Mike Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Suite 100, Lakewood, California, 90712; phone: (562) 627–5325; fax: (562) 627–5210; email: *mike.s.lee@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0833; Product Identifier 2018–CE–018–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 NPRM.

Discussion

In 2015, we were notified of a fatal accident caused by the in-flight structural failure of a wing on a Weatherly Model 620B airplane. The accident investigation found multiple fatigue cracks in the center wing front spar lower hinge bracket. As a result of operator inspections, a cracked hinge bracket in the center wing to outer wing joint was also reported on a different airplane. The hinge bracket from the second report had completely failed, and the airplane was relying on the second failsafe hinge bracket to carry the wing loads. This condition, if not addressed, could result in failure of the wing front spar lower hinge brackets and lead to in-flight separation of the wing with consequent loss of control of the airplane.

To correct this unsafe condition, we issued AD 2016–07–11 (81 FR 18461, March 31, 2016) (''AD 2016–07–11''), which requires a one-time visual inspection of the center and outer wing front spar lower hinge brackets for cracks and corrosion and corrective action as necessary. AD 2016–07–11 also requires sending a report of the inspection results to the FAA.

Since we issued AD 2016–07–11, Weatherly has developed improved center wing hinge brackets manufactured from corrosion resistant material. Weatherly also issued new service information for repetitive visual and detailed inspections. Since the cause of the fatigue cracks were attributed to corrosion pits on the accident airplane, we propose to issue this new AD to require those repetitive visual and detailed inspection actions.

Related Service Information Under 1 CFR Part 51

We reviewed Weatherly 201/620 Service Bulletin SB–201/620–18001, Revision C, dated May 21, 2018. The service information describes procedures for initial and repetitive inspections of the wing hinge brackets, pins, and wing spar structure for corrosion and/or cracks with repair or replacement as necessary. This service

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

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require repetitive visual and detailed inspections of the wing hinge brackets, pins, and wing spar structure for corrosion and/or cracks with replacement of parts as necessary.

Costs of Compliance

We estimate that this proposed AD affects 94 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
Detailed inspection for corrosion and cracks with wing removed.	50 work-hours × $85 per hour = $4,250 per inspection cycle.	Not applicable ...	$4,250 per inspection cycle ..	$399,500 per inspection cycle.
Visual inspection for corrosion with bolts and pin caps removed.	4 work-hours × $85 per hour = $340 per inspection cycle.	Not applicable ..	$340 per inspection cycle	$31,960 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 have no way of determining the number of airplanes that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost (includes hardware)	Cost per product
Replacement of the assembly if all parts are found with corrosion.	0 work-hours since part is already removed from airplane.	$10,500	$10,500

The on-condition costs reflects the cost to replace the entire assembly. The scope of damage found in the required inspection and which specific parts need replaced could vary significantly from airplane to airplane. We have no way of determining how much damage may be found on each airplane or the cost to repair damaged parts on each airplane or the number of airplanes that may require repair.

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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Weatherly Aircraft Company: Docket No. FAA–2018–0833; Product Identifier 2018–CE–031–AD.

(a) Comments Due Date

We must receive comments by November 2, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Weatherly Aircraft Company (Weatherly) Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5740, Wing Attach Hinge Fitting.

(e) Unsafe Condition

This AD was prompted by reports of cracks found on the center wing front spar lower hinge bracket. We are issuing this AD to detect and correct corrosion and cracks on the wing hinge brackets and pin assemblies. The unsafe condition, if not addressed, could result in failure of the wing front and rear spar lower hinge brackets and lead to in-flight separation of the wing with consequent loss of control of the airplane.

(f) Compliance

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

(g) Detailed Inspection

(1) Within 3 months after the effective date of this AD and thereafter at intervals not to exceed 5 years, inspect each center and outer wing spar and spar cap, wing hinge bracket, and hardware for corrosion and cracks by following paragraphs 7 through 22 under the Detailed Inspection section in Weatherly 201/620 Service Bulletin SB–201/620–18001, Revision C, dated May 21, 2018 (Weatherly SB–201/620–18001, Revision C), except this AD does not require you to contact Weatherly.

(2) Serial numbers (S/N) 1155 and 1558 have already had the initial detailed inspection required by paragraph (g)(1) of this AD and only the 5-year repetitive detailed inspections are required for these airplanes.

(3) If any corrosion or cracking is found during any of the inspections required in paragraph (g)(1) of this AD, before further flight, repair or replace any parts with corrosion and cracking as specified in paragraphs 7 through 13 under the Detailed Inspection section in Weatherly SB–201/620–18001, Revision C.

(h) Visual Inspection

Within 12 months after the initial detailed inspection required in paragraph (g) of this AD and thereafter at intervals not to exceed 12 months, visually inspect each forward and rear wing hinge bracket attachment pins, bolts, removed caps, spacers, and hardware for corrosion by following paragraphs 4 through 7 under the Visual Inspection section in Weatherly SB–201/620–18001, Revision C. If any corrosion is found during any of the inspections required by this paragraph, before further flight, inspect further, repair, and/or replace any parts with corrosion as specified in paragraphs 5 and 6 under the Visual Inspection section in Weatherly SB–201/620–18001, Revision C. You may perform a detailed inspection in accordance with paragraph (g) of this AD instead of any visual inspection required by paragraph (h) of this AD.

(i) 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 (j) of this AD.

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

(j) Related Information

(1) For more information about this AD, contact Mike Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Suite 100, Lakewood, California, 90712; phone: (562) 627–5325; fax: (562) 627–5210; email: *mike.s.lee@faa.gov.*

(2) For service information identified in this AD, contact Weatherly Aircraft Company, 2034 West Potomac Avenue, Chicago, Illinois 60622–3152; telephone: (424) 772–1812; email: *garybeck@cox.net.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on September 7, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–20002 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2018–F–3230]

Oakshire Naturals LP; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by Oakshire Naturals LP, proposing that the food additive regulations be amended to provide for the safe use of vitamin D_2 mushroom powder as a nutrient supplement in specific food categories.

DATES: The food additive petition was filed on July 16, 2018.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this document into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1071.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), we are giving notice that we have filed a food additive petition (FAP 8A4821), submitted by Oakshire Naturals LP, 295 Thompson Road, P.O. Box 388, Kennett Square, PA 19348. The petition proposes to amend the food additive regulations in part 172 (21 CFR part 172) *Food Additives Permitted for Direct Addition to Food for Human Consumption* to provide for the safe use of vitamin D_2 mushroom powder, produced by exposing homogenized edible mushrooms to ultraviolet light, as a nutrient supplement in: (1) Foods to which vitamin D_2, vitamin D_3, and vitamin D_2 bakers yeast are currently allowed to be added under 21 CFR 184.1950, 172.379, 172.380, and 172.381 (excluding cheese and cheese products, foods represented for use as a sole source of nutrition for enteral feeding, infant formula, milk and milk products, and margarine); (2) fruit smoothies; (3) vegetable juices; (4) extruded vegetable snacks; (5) soups and soup mixes (except for those containing meat or poultry that are subject to regulation by the U.S. Department of Agriculture under the Federal Meat Inspection Act or the Poultry Products Inspection Act); and (6) plant protein products as defined in 21 CFR 170.3(n)(33).

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(k) because the substance is intended to remain in food through ingestion by consumers and is not intended to replace macronutrients in food. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If

FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: September 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–20217 Filed 9–17–18; 8:45 am]

BILLING CODE 4164–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3035

[Docket No. RM2018–12; Order No. 4822]

Market Tests

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing revisions to its rules governing market tests of experimental products. This document informs the public of the docket's initiation, invites public comment, and takes other administrative steps.

DATES: *Comments are due on or before* October 18, 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

Pursuant to 39 U.S.C. 503 and 3641, this order establishes a rulemaking docket that proposes amendments to the Commission's regulations governing market tests of experimental products appearing in existing 39 CFR part 3035. The proposed amendments would revise regulations concerning market test revenue limitations and requests to add a non-experimental product or price category based on an experimental product to the market dominant or competitive product list.[1] The proposed rules reflect lessons learned through the Commission's experiences with the existing regulations and current practice before the Commission. The proposed rules appear after the signature of this order in Attachment A.

II. Proposed Amendments

Section 3641 of title 39 of the United States Code authorizes the Postal Service to conduct market tests of experimental products. In accordance with its specific authority to regulate market tests under 39 U.S.C. 3641 and its general authority under 39 U.S.C. 503 to promulgate regulations and establish procedures, the Commission codified existing 39 CFR part 3035 to establish procedures for conducting market tests of experimental products.[2] The Commission establishes this proceeding to consider amendments to the existing market test regulations.

The proposed amendments are discussed below. The first set of amendments intend to revise the method for calculating applicable revenue limitations for market tests appearing in existing §§ 3035.15 and 3035.16 to be consistent with the current level of precision used in calculating the annual limitation on the percentage change in rates for market dominant products (price cap). The second set of proposed amendments aim to clarify the process under existing § 3035.18 for adding a non-experimental product or price category based on an experimental product to the market dominant or competitive product list and to emphasize the necessity of receiving specific detailed information in those instances.

A. Market Test Revenue Limitations

Unless the Commission grants an exemption, total revenues anticipated or in fact received by the Postal Service from an experimental product must not exceed $10 million in any year. 39 U.S.C. 3641(e)(1). Upon written application of the Postal Service, the Commission may exempt the market test from the $10 million revenue limitation if certain requirements are met. 39 U.S.C. 3641(e)(2). If the Commission grants an exemption, total revenues anticipated, or in fact received by, the Postal Service from a market test may not exceed $50 million in any year. *Id.* These amounts must be adjusted annually by the change in the Consumer Price Index for such year, as determined under the regulations of the Commission. 39 U.S.C. 3641(g). Existing § 3035.15(a) uses the Consumer Price Index—All Urban Customers (CPI–U index), as specified by §§ 3010.21(a) and 3010.22(a) of this chapter, to calculate these amounts.

Existing § 3035.15(d) explains the method for calculating the $10 million revenue limitation on a fiscal year basis, as adjusted for the change in the CPI–U index ($10 Million Adjusted Limitation). Calculating the $10 Million Adjusted Limitation involves three steps. First, a simple average CPI–U index was calculated for Fiscal Year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12. 39 CFR 3035.15(d); *see* 39 U.S.C. 3641(g). The result is a Base Average of 214.5. 39 CFR 3035.15(d). Second, a second simple average CPI–U index is calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 to obtain a Recent Average. *Id.* Third, the revenue limitation for the current fiscal year is calculated by multiplying $10 million by the Recent Average divided by the Base Average of 214.5. *Id.* The result is the $10 Million Adjusted Limitation, rounded to the nearest dollar. *Id.* Existing § 3035.16(c) sets forth corresponding steps for calculating the $50 million revenue limitation, as adjusted for the change in the CPI–U index ($50 Million Adjusted Limitation).

Under existing §§ 3035.15 and 3035.16, the Base Average for both the $10 Million and $50 Million Adjusted Limitations is calculated using one decimal place (214.5). In Order No. 303, the Commission amended the price cap rules appearing in §§ 3010.21 and 3010.22 of this chapter to calculate the CPI–U price cap using three decimal places instead of one.[3] The Commission

[1] Product lists categorize postal products as either market dominant or competitive. 39 CFR 3020.1(b). Each experimental product during a market test is identified on the applicable product list under the organizational group heading ''Market Tests'' in accordance with 39 U.S.C. 3641(b)(3) and existing §§ 3020.4(b)(2)(ii)(D) and 3020.4(b)(3)(ii)(D) of this chapter. The intent of existing § 3035.18 and the revisions proposed in this order apply only to a request to offer a proposed product or price category in non-experimental status, that is—subject to the applicable requirements of 39 U.S.C. 3622, 3633, or 3642, and the applicable regulations promulgated thereunder.

[2] *See* Docket No. RM2013–5, Order Adopting Final Rules for Market Tests of Experimental Products, August 28, 2014 (Order No. 2173).

[3] Docket No. RM2009–8, Order Amending the Cap Calculation in the System of Ratemaking, September 22, 2009, at 1–2 (Order No. 303); *see* Docket No. RM2009–8, Notice of Proposed Rulemaking to Amend the Cap Calculation in the System of Ratemaking, July 10, 2009 (Order No. 246).

explained that rounding to three decimal places was appropriate for several reasons. The Postal Service previously proposed small rate adjustments that required a greater degree of precision when calculating the price cap. Order No. 246 at 2; Order No. 303 at 1. Available data allowed the price cap to be calculated to three decimal places, which was not possible when the Commission established its regulations governing rates and classes for market dominant and competitive products.[4] Calculating the price cap to three decimal places was also consistent with how the Commission calculated the Postal Service's unused rate adjustment authority.[5]

Consistent with the price cap rules, the proposed amendments would calculate the Base Average for the $10 Million Adjusted Limitation and $50 Million Adjusted Limitation using three decimal places (214.463). The proposed amendments would replace ''214.5'' with ''214.463'' in paragraphs (d) and (e) of existing § 3035.15 and in paragraphs (c) and (d) of existing § 3035.16. This change would slightly increase the current $10 Million and $50 Million Adjusted Limitations, which were calculated using one decimal place.[6] For FY 2018, the $10 Million Adjusted Limitation would increase from $11,365,967 to $11,367,928, and the $50 Million Adjusted Limitation would increase from $56,829,837 to $56,839,641. Thus, the proposed amendments would have limited substantive effect, but would enhance consistency across the Commission's rules.

B. Request To Add a Non-Experimental Product or Price Category Based on an Experimental Product to the Product List

1. Background

Generally, each product offered by the Postal Service must comply with 39 U.S.C. 3622 (governing market dominant products), 39 U.S.C. 3633 (governing competitive products), or 39 U.S.C. 3642 (governing changes to the lists of market dominant and competitive products), and applicable regulations. Experimental products, however, are not subject to 39 U.S.C. 3622, 3633 or 3642, or the associated regulations. 39 U.S.C. 3641(a)(2).

The Postal Service may decide to add a non-experimental product or price category to the product list based on its performance or other factors. Accordingly, existing § 3035.18 sets forth procedures for filing a request to add a current or former experimental product to the market dominant or competitive product list in non-experimental status, that is—subject to the applicable requirements of 39 U.S.C. 3622, 3633, or 3642, and the applicable regulations promulgated thereunder. *See* Order No. 2173 at 24. Existing § 3035.18 uses the term ''permanent'' to describe the non-experimental status of the proposed product or price category. *See id.* Existing § 3035.18(a) states that if the Postal Service decides to make an experimental product permanent, it must file a request under 39 U.S.C. 3642 and part 3020, subpart B of this chapter to add a new product or price category to the market dominant or competitive product list. Existing § 3035.18(a) requires the Postal Service to file such requests at least 60 days before the market test expires or the market test exceeds any authorized adjusted limitation in any fiscal year, whichever is earlier.

Under existing § 3035.18(b), requests must quantify the product specific costs associated with developing the market test, which are the costs incurred before the market test was implemented. Under existing § 3035.18(c), the Postal Service must also file a notice of the request in the market test proceeding's docket that includes the applicable docket number(s) for the proceeding evaluating the request.

Since the market test rules were implemented, the Postal Service has filed requests for the Customized Delivery and Metro Post experimental products.[7] Customized Delivery was a package delivery service offering that provided customers with delivery of groceries and other prepackaged goods within a customized delivery window.[8] Metro Post was a package delivery service that provided customers with same-day delivery within a defined metropolitan area.[9] The Postal Service proposed to add non-experimental products based on both the Customized Delivery and Metro Post experimental products to the competitive product list as NSAs, which are written contracts between the Postal Service and a mailer for customer-specific rates and fees that are effective for a defined period of time. 39 CFR 3001.5(r). The Customized Delivery and Metro Post Requests raised issues about the applicability of existing § 3035.18, as well as the information necessary for the Commission to evaluate such requests. The proposed amendments are intended to address these issues by clarifying when existing § 3035.18 applies and what information a request must include. Each issue is discussed below, along with the proposed amendments to existing § 3035.18.

2. Applicability of Existing § 3035.18

The Customized Delivery and Metro Post Requests raised questions about the applicability of existing § 3035.18. The Postal Service filed both of these requests under regulations applicable to new competitive NSAs [10] rather than under existing § 3035.18. Existing § 3035.18 is ambiguous as to whether it applies to proposed NSAs in light of the fact that it refers to ''permanent'' products, and NSAs, as defined by existing § 3001.5(r) of this chapter, are not permanent but rather are in effect for a defined period of time.

These filings were problematic because the Postal Service did not

[4] Order No. 246 at 2; Order No. 303 at 1–2; *see* Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

[5] Order No. 246 at 2; Order No. 303 at 1–2; *see* 39 CFR 3010.26 and 3010.27.

[6] The market test revenue limitations for the fiscal year are published on the Commission's website available at *http://www.prc.gov;* hover over ''References'' and follow ''CPI Figures'' hyperlink.

[7] Docket Nos. MC2018–13 and CP2018–26, USPS Request to Add Parcel Select Contract 24 to Competitive Product List and Notice of Filing Materials Under Seal, October 18, 2017 (Customized Delivery Request). The requests to add Metro Post to the competitive product list (Metro Post Requests) were filed as separate proposed negotiated service agreements (NSAs). Docket Nos. MC2016–39 and CP2016–48, Request of the United States Postal Service to Add Priority Mail Contract 165 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–40 and CP2016–49, Request of the United States Postal Service to Add Priority Mail Contract 166 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–41 and CP2016–50, Request of the United States Postal Service to Add Priority Mail Contract 167 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–42 and CP2016–51, Request of the United States Postal Service to Add Priority Mail Contract 168 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–43 and CP2016–52, Request of the United States Postal Service to Add Priority Mail Contract 169 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–52 and CP2016–67, Request of the United States Postal Service to Add Priority Mail Contract 174 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 23, 2015.

[8] Docket No. MT2014–1, Order Authorizing Customized Delivery Market Test, October 23, 2014, at 1 (Order No. 2224).

[9] Docket No. MT2013–1, Order Approving Metro Post Market Test, November 14, 2012, at 1 (Order No. 1539).

[10] *See* 39 U.S.C. 3642; 39 CFR part 3020, subpart B; and 39 CFR 3015.5.

provide 60 days' notice of the Customized Delivery and Metro Post Requests as required by existing § 3035.18(a). Instead, the Postal Service filed the Metro Post Requests under provisions applicable to new competitive NSAs, which are generally reviewed within 15 days. *See* 39 U.S.C. 3632(b)(3). The Postal Service filed the Customized Delivery Request on October 18, 2017, two weeks before the market test expired. Customized Delivery Request at 1. The Postal Service noted that the Customized Delivery market test would expire on October 31, 2017, but asked the Commission to expedite its review and issue a decision before November 1, 2017. *Id.* The Postal Service acknowledged that ''it is seeking the Commission's approval on a shorter timeline than provided for in the statute and the Commission's rules[]'' because of the complexity of the contract. *Id.* at 1 n.1.

The Commission conditionally approved the Customized Delivery Request.[11] However, the Commission expressed concern that the timing of the request ''frustrates the purpose of the Commission's rules for making experimental products permanent'' and could be interpreted as disregarding the requirements of existing § 3035.18. Order No. 4196 at 7. The Commission stated that it will review the existing market test regulations and revise them as necessary. *Id.*

The 60-day notice requirement in existing § 3035.18(a) ensures that both the Commission and interested persons have adequate time to evaluate and respond to a request. *See* Order No. 2173 at 27. Failing to provide adequate notice frustrates the intent of this rule.

The Postal Service also failed to file notices of the Customized Delivery and Metro Post Requests in the applicable market test proceeding's docket as required by existing § 3035.18(c). These notices are important for providing transparency into the Commission's review of requests by helping mailers and the general public track a market test's progress from an experimental product to a non-experimental market dominant or competitive product. *See id.* at 25–26. Failing to file notices in the applicable market test proceeding's docket hinders transparency and the public's ability to comment on the request.

To address these issues, the proposed amendments would clarify that existing § 3035.18 applies to any non-experimental product or price category based on a former or current experimental product that the Postal Service seeks to add to the market dominant or competitive product list, whether permanent or temporary. The proposed amendments would remove the word ''permanent'' from existing § 3035.18 and instead refer to a request to add a non-experimental product or price category based on an experimental product to the applicable product list. The proposed amendments would clarify that existing § 3035.18 applies to the addition of all non-experimental products or price categories that were based on an experimental product.

To ensure that the Postal Service files under the appropriate regulation, the proposed amendments would identify specific instances when the Postal Service must file a request under existing § 3035.18. Proposed § 3035.18(b) would require the Postal Service to file a request if the proposed non-experimental product or price category: offers the same (or similar) service as a former or current experimental product; has the same distinct cost or market characteristic as a former or current experimental product; or uses (or is based on) data or assumptions from a former or current market test proceeding.

The proposed rules would also require the Postal Service to provide advance notice of requests. If the Postal Service seeks a Commission decision by a certain date, the Postal Service must provide adequate notice to ensure the Commission and interested persons have sufficient time to obtain necessary information and evaluate the request. Proposed § 3035.18(d) would require the Postal Service to file a request at least 60 days before the requested decision date. For example, for the Customized Delivery and Metro Post Requests, the Postal Service asked the Commission to issue its decision before or when the market test ends to ensure continuity between the market test and proposed NSAs. In those cases, proposed § 3035.18(d) would require the Postal Service to file the request at least 60 days before the applicable market test ends.

The Commission retains the substance of existing § 3035.18(c), but the proposed amendments would move paragraph (c) to proposed § 3035.18(e). Proposed § 3035.18(e) would delete the phrase ''to make an experimental product permanent.'' This proposed rule works in conjunction with proposed § 3035.18(c)(1), discussed in more detail below, which would require a request to identify the market test and docket number that the proposed non-experimental product or price category is based on.

Existing § 3035.18(a) requires the Postal Service to file a request under 39 U.S.C. 3642 and part 3020, subpart B of this chapter. Because of the unique nature of market tests and experimental products, existing § 3035.18(b) requires the Postal Service to include additional information to help facilitate the Commission's review of requests. As a result of the Commission's review of the Metro Post and Customized Delivery Requests, the Commission has identified additional information that should be provided with a request. The public versions of the Metro Post Requests did not reveal the connection between the proposed NSAs and the Metro Post experimental product. The proposed NSAs offered same-day delivery service just like the Metro Post experimental product. However, the Metro Post Requests redacted information stating that the proposed NSAs allow for same-day delivery of packages and were developed from Metro Post market test data.[12] The Commission found that redacting this information delayed the proceeding and the public's ability to prepare comments. Order No. 3069 at 6. The Commission also stated that the redactions hindered transparency because interested persons reviewing the requests lacked important information that would inform their comments: that the NSAs offered the same service as the Metro Post experimental product. *Id.*

To address this issue, proposed § 3035.18(c)(1) would require a request to identify the market test and docket number that the proposed non-experimental product or price category is based on. Proposed § 3035.18(c)(2) would require a request to explain how the proposed non-experimental product or price category relates to a market test or an experimental product. For example, the Customized Delivery Request clearly stated that the proposed NSA ''is modeled off the Customized Delivery market test. . . .'' Customized Delivery Request at 1. Proposed § 3035.18(c)(2) would require the Postal Service to provide a similar statement in future requests.

Another issue with the Metro Post and Customized Delivery Requests was that the requests did not include all of the information necessary for the Commission to evaluate them. During a market test, the Postal Service collects

[11] Docket Nos. MC2018–13 and CP2018–26, Order Conditionally Adding Parcel Select Contract 24 to the Competitive Product List, October 31, 2017 (Order No. 4196).

[12] *See, e.g.,* Docket Nos. MC2016–39 and CP2016–48, Order Adding Priority Mail Contract 165 to the Competitive Product List, February 12, 2016, at 6 (Order No. 3069).

and reports information for each quarter in data collection reports. *See* 39 CFR 3035.20. Data collection reports are intended to form the basis upon which the Postal Service may file a request to add a non-experimental product or price category based on an experimental product to the product list. Essentially, the data generated from the market test should minimize the reliance on proxy data and untested assumptions in the financial model used to support the request. However, the financial models for the Metro Post and Customized Delivery Requests were based on data and assumptions that deviated from the applicable market test data collection reports. This necessitated the issuance of several information requests, which prolonged the proceedings and the Commission's review.

To address this issue, proposed § 3035.18(c)(3) would require a request to identify any assumptions from the market test that the request uses or is based on. Proposed § 3035.18(c)(4) would require financial models supporting the request to include all data from data collection reports or separately identify and explain any differences between the data collection reports and the data provided in the requests.

Existing § 3035.18(b) requires the request to quantify the product specific costs associated with developing the market test, which refers to the costs incurred before the market test was implemented. The Commission retains the substance of this rule, but the proposed amendments would make clarifying edits and move it to proposed § 3035.18(c)(5).

III. Section-by-Section Analysis

Proposed Authority Citation in part 3035. The Commission proposes to add a cross-reference to 39 U.S.C. 503 in the existing authority citation for part 3035. This proposed change aims to clarify the statutory provisions granting the Commission authority to promulgate regulations concerning market tests.

Proposed § 3035.15(d). Proposed § 3035.15(d) replaces ''214.5'' with ''214.463'' in two places.

Proposed § 3035.15(e). Proposed § 3035.15(e) replaces ''214.5'' with ''214.463.''

Proposed § 3035.16(c). Proposed § 3035.16(c) replaces ''214.5'' with ''214.463'' in two places.

Proposed § 3035.16(d). Proposed § 3035.16(d) replaces ''214.5'' with ''214.463.''

Proposed § 3035.18. The Commission proposes to change the heading of existing § 3035.18 to ''Request to add a non-experimental product or price category based on an experimental product to the product list.'' This change reflects the proposed amendments to the regulatory text.

Proposed § 3035.18(a). Proposed § 3035.18(a) contains the substance of the first sentence of existing § 3035.18(a), but replaces the word ''permanent'' with general language about adding a non-experimental product or price category based on an experimental product to the applicable product list.

Proposed § 3035.18(b). Proposed § 3035.18(b) identifies instances when the Postal Service must file a request compliant with the remaining paragraphs of the section.

Proposed § 3035.18(c). Proposed § 3035.18(c) lists the information that the Postal Service must include in a request.

Proposed § 3035.18(d). The second sentence of existing § 3035.18(a) is revised and moved to proposed § 3035.18(d). If the Postal Service seeks a Commission decision by a certain date, proposed § 3035.18(d) requires that the Postal Service file a request at least 60 days before the requested decision date.

Proposed § 3035.18(e). Existing § 3035.18(c) is moved to proposed § 3035.18(e), but deletes the phrase ''to make an experimental product permanent.''

IV. Administrative Actions

The Regulatory Flexibility Act requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. *See* 5 U.S.C. 601, *et seq.* (1980). If the proposed or final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, the head of the agency may certify that the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply. *See* 5 U.S.C. 605(b).

In the context of this rulemaking, the Commission's primary responsibility is in the regulatory oversight of the United States Postal Service. The rules that are the subject of this rulemaking have a regulatory impact on the Postal Service, but do not impose any regulatory obligation upon any other entity. Based on these findings, the Chairman of the Commission certifies that the rules that are the subject of this rulemaking will not have a significant economic impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Interested persons are invited to provide written comments concerning the proposed amendments to the market test regulations in 39 CFR part 3035. Comments are due no later than 30 days after the date of publication of this notice in the **Federal Register**. All comments and suggestions received will be available for review on the Commission's website, *http://www.prc.gov.*

Pursuant to 39 U.S.C. 505, Katharine L. Primosch is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

V. Ordering Paragraphs

It is ordered:

1. Docket No. RM2018–12 is established for the purpose of receiving comments on the proposed amendments to 39 CFR part 3035, as discussed in this order.

2. Interested persons may submit comments no later than 30 days from the date of publication of this notice in the **Federal Register**.

3. Pursuant to 39 U.S.C. 505, Katharine L. Primosch is appointed to serve as Public Representative in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

List of Subjects in 39 CFR Part 3035

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend 39 CFR part 3035 as follows:

PART 3035—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

■ 1. The authority citation for part 3035 is revised to read as follows:

Authority: 39 U.S.C. 503; 3641.

■ 2. Amend § 3035.15 by revising paragraphs (d) and (e) to read as follows:

§ 3035.15 Dollar amount limitation.

* * * * *

(d) The calculation of the $10 Million Adjusted Limitation involves the following steps. First, a simple average CPI–U index was calculated for fiscal year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12 (Base Average). The resulting Base Average is 214.463. Then,

a second simple average CPI–U index is similarly calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 (Recent Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $10,000,000 by the Recent Average divided by 214.463. The result is expressed as a number, rounded to the nearest dollar.

(e) The formula for calculating the $10 Million Adjusted Limitation is as follows: $10 Million Adjusted Limitation = $10,000,000 * (Recent Average/214.463).

■ 3. Amend § 3035.16 by revising paragraphs (c) and (d) to read as follows:

§ 3035.16 Exemption from dollar amount limitation.

* * * * *

(c) The calculation of the $50 Million Adjusted Limitation involves the following steps. First, a simple average CPI–U index was calculated for fiscal year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12 (Base Average). The resulting Base Average is 214.463. Then, a second simple average CPI–U index is similarly calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 (Recent Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $50,000,000 by the Recent Average divided by 214.463. The result is expressed as a number, rounded to the nearest dollar.

(d) The formula for calculating the $50 Million Adjusted Limitation is as follows: $50 Million Adjusted Limitation = $50,000,000 * (Recent Average/214.463).

■ 4. Revise § 3035.18 to read as follows:

§ 3035.18 Request to add a non-experimental product or price category based on an experimental product to the product list.

(a) If the Postal Service seeks to add a non-experimental product or price category based on a former or current experimental product to the market dominant or competitive product list, the Postal Service shall file a request, pursuant to 39 U.S.C. 3642 and part 3020, subpart B of this chapter, to add a non-experimental product or price category to the applicable product list.

(b) The Postal Service shall comply with the requirements specified in paragraphs (c) through (e) of this section of this section if the proposed non-experimental product or price category:

(1) Offers the same (or similar) service as a former or current experimental product;

(2) Has the same distinct cost or market characteristic as a former or current experimental product; or

(3) Uses (or is based on) data or assumptions from a former or current market test proceeding.

(c) A request filed under this section shall:

(1) Identify the market test and docket number that the proposed non-experimental product or price category is based on;

(2) Explain the relationship between the proposed non-experimental product or price category and market test or experimental product;

(3) Identify any assumptions from the market test that the request uses or is based on;

(4) Include all data from data collection reports in the financial model, or separately identify and explain any differences between the data collection reports and the data used to support the financial model; and

(5) Quantify the product specific costs associated with the development of the market test; that is, costs incurred before the market test was implemented.

(d) If the Postal Service seeks a Commission decision by a certain date, the Postal Service shall file a request under this section at least 60 days before the requested decision date.

(e) The Postal Service shall also file a notice of its request under this section in the market test proceeding's docket. This notice shall include the applicable docket number(s) for the proceeding evaluating the request.

[FR Doc. 2018–20287 Filed 9–17–18; 8:45 am]

BILLING CODE 7710–FW–P

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Petition No. P3–18]

Petition of the World Shipping Council for an Exemption From Certain Provisions of the Shipping Act of 1984, as Amended, and for a Rulemaking Proceeding; Notice of Filing and Request for Comments

Notice is hereby given that the World Shipping Council (''Petitioner'') has petitioned the Commission pursuant to 46 CFR 502.92 ''. . . for an exemption from the service contract filing and essential terms publication requirements set forth at 46 U.S.C. 40502(b) and (d), respectively . . .'' Petitioner ''. . . further petitions the Commission for the initiation of a rulemaking proceeding to amend its service contract regulations set forth at 46 CFR part 530 in a manner consistent with the requested exemption.'' Petitioner alleges that ''[t]he filing of service contracts and amendments, and the publication of essential terms, represent a substantial administrative and regulatory burden'' to its ''ocean common carrier members.''

In order for the Commission to make a thorough evaluation of the requested exemption and rulemaking presented in the Petition, pursuant to 46 CFR 502.92, interested parties are requested to submit views or arguments in reply to the Petition no later than November 19, 2018. Replies shall be sent to the Secretary by email to *Secretary@fmc.gov* or by mail to Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001, and replies shall be served on Petitioner's counsel, Wayne R. Rhode, Cozen O' Connor, 1200 19th St. NW, Suite 300, Washington, DC 20036, *wrohde@cozen.com.*

Non-confidential filings may be submitted in hard copy to the Secretary at the above address or by email as a PDF attachment to *Secretary@fmc.gov* and include in the subject line: P3–18 (Commenter/Company). Confidential filings should not be filed by email. A confidential filing must be filed with the Secretary in hard copy only, and be accompanied by a transmittal letter that identifies the filing as ''Confidential-Restricted'' and describes the nature and extent of the confidential treatment requested. The Commission will provide confidential treatment to the extent allowed by law for confidential submissions, or parts of submissions, for which confidentiality has been requested. When a confidential filing is submitted, there must also be submitted a public version of the filing. Such public filing version shall exclude confidential materials, and shall indicate on the cover page and on each affected page ''Confidential materials excluded.'' Public versions of confidential filings may be submitted by email. The Petition will be posted on the Commission's website at *http://www.fmc.gov/P3-18.* Replies filed in response to the Petition will also be posted on the Commission's website at this location.

Rachel E. Dickon,

Secretary.

[FR Doc. 2018–20167 Filed 9–17–18; 8:45 am]

BILLING CODE 6731–AA–P

Notices

Federal Register
Vol. 83, No. 181
Tuesday, September 18, 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

September 13, 2018.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. 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.

Comments regarding these information collections are best assured of having their full effect if received by October 18, 2018. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Agricultural Marketing Service

Title: United States Warehouse Act (USWA).

OMB Control Number: 0581–0305.

Summary of Collection: The Agricultural Marketing Service (AMS) is responsible, as required by the USWA, 7 U.S.C. 241 *et seq.,* to license public warehouse operators that are in the business of storing agricultural products; to examine such federally-licensed warehouses and to license qualified persons to sample, inspect, weight, and classify agricultural products. The AMS licenses under the USWA cover approximately half of all commercial grain and cotton warehouse capacities in the United States. The regulations that implement the USWA governs the establishment and maintenance of systems under which documents, including documents of title on shipment, payment, and financing, may be issued, or transferred for agricultural products.

Need and Use of the Information: AMS will collect information as a basis to (1) determine whether or not the warehouse and the warehouse operator making application for licensing and/or approval meets applicable standards; (2) issue such license or approvals; and (3) determine, once licensed or approved, that the licensee or warehouse operator continues to meet such standards and is conforming to regulatory or contractual obligations. The information collected allows AMS to effectively administer the regulations, licensing, and electronic provider agreements and related reporting and recordkeeping requirements as specified in the USWA.

Description of Respondents: Business or other for-profit. Farms.

Number of Respondents: 3,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly.

Total Burden Hours: 40,587.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–20281 Filed 9–17–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2018–0008]

Notice of Availability of the Alabama Trustee Implementation Group Final Restoration Plan II and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters and Finding of No Significant Impact

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of Availability of the Alabama Trustee Implementation Group Final Restoration Plan II and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters and Finding of No Significant Impact.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Alabama Trustee Implementation Group (AL TIG) have prepared a Final Restoration Plan II and Environmental Assessment (Final RP II/EA) and Finding of No Significant Impact (FONSI). The Final RP II/EA describes the restoration project alternatives considered by the AL TIG to meet the Trustees' goals to restore and conserve habitat, replenish and protect living coastal and marine resources, restore water quality, and provide for monitoring and adaptive management. The AL TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and evaluated the environmental consequences of the

restoration alternatives in accordance with NEPA.

Monitoring and adaptive management activities to address information gaps necessary to inform future restoration are included in this Final RP II/EA. The purpose of this notice is to inform the public of the availability of the Final RP II/EA and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final RP II/EA and FONSI at *http://www.gulfspillrestoration.noaa.gov.* Alternatively, you may request a CD of the Final RP II/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**). Also, you may view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT:

- USDA—Ronald Howard, *ron.howard@ms.usda.gov.*
- State of Alabama—Amy Hunter, *amy.hunter@dcnr.alabama.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for British Petroleum (BP) Exploration and Production Inc. in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The Deepwater Horizon oil spill is the largest oil spill in United States (U.S.) history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. Also, an undetermined amount of natural gas was released to the environment as a result of the spill.

The Deepwater Horizon State and Federal natural resource trustees (DWH Trustees) conducted an NRDA for the Deepwater Horizon oil spill under OPA (33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree [1] approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Alabama are now chosen and managed by AL TIG. AL TIG is composed of the following Trustees:

- U.S. Department of the Interior;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Alabama Department of Conservation and Natural Resources; and
- Geological Survey of Alabama.

This restoration planning activity is proceeding in accordance with the Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (PDARP/PEIS). Restoration types evaluated in the Final RP II/EA include: Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters. Information on the restoration types evaluated in the Final RP II/EA, as well as the OPA criteria against which project ideas are being evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

[1] *https://www.justice.gov/enrd/file/838066/download.*

Background

In December 2016, as part of its restoration planning efforts, AL TIG asked the public for project ideas that could benefit Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and/or Oysters in the Alabama Restoration Area. The project submissions received through this process, along with projects previously submitted during prior restoration planning processes, resulted in the alternatives evaluated in the Draft RP II/EA.

Notice of availability of the Draft RP II/EA was published in the **Federal Register** on April 5, 2018 (83 FR 14623). The Draft RP II/EA provided the Alabama TIG's analysis of alternatives that would meet the Trustees' goals to restore and conserve habitat, replenish and protect living coastal and marine resources, restore water quality, and provide for monitoring and adaptive management under OPA and NEPA, and identified the alternatives that were proposed as preferred for implementation. AL TIG provided the public with 30 days to review and comment on the Draft RP II/EA. AL TIG also held a public meeting in Spanish Fort, Alabama to facilitate public understanding of the document and provide opportunity for public comment. AL TIG actively solicited public input through a variety of mechanisms, including convening a public meeting, distributing electronic communications, and using the Trustee-wide public website and database to share information and receive public input. AL TIG considered the public comments received, which informed the AL TIG's analysis of alternatives in the Final RP II/EA. A summary of the public comments received and the Alabama TIG's responses to those comments are addressed in Chapter 16 of the Final RP II/EA, and all correspondence received are provided Appendix A.

Overview of the Final RP II/EA

The Final RP II/EA is being released in accordance with the OPA, the NRDA regulations at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

In the Final RP II/EA and FONSI, the AL TIG identified 20 preferred alternatives to be fully funded from restoration type funds, one preferred alternative to be partially funded from restoration type funds and partially funded from the AL TIG's Monitoring and Adaptive Management (MAM) allocation, and one activity to be fully funded using MAM funds. Specifically, the AL TIG selected the following projects as preferred alternatives:

Five Projects Within the Wetlands, Coastal, and Nearshore Habitats Restoration Type

- Magnolia River Land Acquisition (Holmes Tract)
- Weeks Bay Land Acquisition East (Gateway Tract)
- Weeks Bay Land Acquisition (Harrod Tract)
- Lower Perdido Islands Restoration Phase I (Engineering & Design (E&D))
- Southwest Coffee Island Habitat Restoration Project—Phase I (also evaluated and selected for funding under the Birds Restoration Type) (E&D)

Two Projects Within the Habitat Projects on Federally Managed Lands Restoration Type

- Little Lagoon Living Shorelines
- Restoring the Night Sky—Assessment, Training, and Outreach (also evaluated under the Sea Turtles Restoration Type and selected for funding under the Monitoring and Adaptive Management Allocation) (E&D)

Three Projects Within the Nutrient Reduction (Nonpoint Source) Restoration Type

- Toulmins Springs Branch E&D (E&D)
- Fowl River Nutrient Reduction
- Weeks Bay Nutrient Reduction

Four Projects Within the Sea Turtles Restoration Type

- Coastal Alabama Sea Turtle (CAST) Conservation Program—''Share the Beach''
- CAST Triage
- CAST Habitat Usage and Population Dynamics
- CAST Protection: Enhancement and Education

Two Projects Within the Marine Mammals Restoration Type

- Enhancing Capacity for the Alabama Marine Mammal Stranding Network
- Alabama Estuarine Bottlenose Dolphin Protection: Enhancement and Education

Two Projects Within the Birds Restoration Type

- Southwestern Coffee Island Habitat Restoration Project—Phase I (also evaluated and selected for funding under the Wetlands, Coastal, and Nearshore Habitats Restoration Type) (E&D)
- Colonial Nesting Wading Bird Tracking and Habitat Use Assessment—Two Species

Four Projects Within the Oysters Restoration Type

- Oyster Cultch Relief and Reef Configuration
- Side-scan Mapping of Mobile Bay Relic Oyster Reefs (E&D)
- Oyster Hatchery at Claude Peteet Mariculture Center—High Spat Production with Study
- Oyster Grow-Out and Restoration Reef Placement

Two activities are proposed for funding, in whole or in part, with AL TIG's Monitoring and Adaptive Management Allocation:

- Assessment of Alabama Estuarine Bottlenose Dolphin Populations and Health
- Restoring the Night Sky—Assessment, Training, and Outreach (also evaluated and selected for funding under the Habitats on Federally Managed Lands Restoration Type) (E&D)

The Final RP II/EA also evaluates No Action Alternatives for each of the restoration types. AL TIG has determined that the restoration projects and monitoring and adaptive management activities proposed for funding are appropriate to partially compensate for the injuries for these restoration types described in PDARP/PEIS. In the Final RP II/EA, the Alabama TIG presents to the public its plan for providing partial compensation to the public for natural resources and ecological services injured or lost in Alabama as a result of the Deepwater Horizon Oil Spill. The projects described in the Final RP II/EA are most appropriate for addressing injuries to: Wetlands, Coastal and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters. The monitoring and adaptive management activities preferred for funding in the Final RP II/EA will also assist AL TIG in tracking project success and will inform and enhance future restoration planning. In accordance with NEPA, and as part of the Final RP II/EA, the Trustees issued a FONSI. The FONSI is available in Appendix J of the Final RP II/EA.

Administrative Record

The DWH Trustees opened a publicly available Administrative Record for the NRDA for the Deepwater Horizon oil spill, including restoration planning activities, concurrently with publication of the 2011 Notice of Intent to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS (pursuant to 15 CFR 990.45). The Administrative Record includes the relevant administrative records since its date of inception. This Administrative Record is actively maintained and available for public review. The documents included in the Administrative Record can be viewed electronically at the following location: *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the OPA (33 U.S.C. 2701 *et seq.*), the implementing NRDA regulations at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

Signed in Washington, DC, on August 27, 2018.

Leonard Jordan,

Acting Chief, Natural Resources Conservation Service.

[FR Doc. 2018–20168 Filed 9–17–18; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for the Multifamily Preservation and Revitalization Demonstration Program Under Section 514, Section 515, and Section 516; Correction

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: This document corrects four items in the initial Notice that published in the **Federal Register** on September 5, 2017, entitled ''Notice of Solicitation of Applications for the Multifamily Preservation and Revitalization (MPR) Demonstration Program Under Section 514, Section 515, and Section 516.'' These items revise and clarify the application submission dates, transfer deferral only approval timelines and Agency processing actions.

DATES: This correction is effective September 18, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Greenwalt, *dean.greenwalt@wdc.usda.gov,* (314) 457–5933, and/or Abby Boggs, *abby.boggs@wdc.usda.gov,* (615) 783 1382, Preservation and Direct Loan Division, STOP 0782 (Room 1263–S), U.S. Department of Agriculture, Rural Development, 1400 Independence Avenue SW, Washington, DC 20250–0782. (*Please note these telephone numbers are not toll-free numbers.*)

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–18753 of September 5, 2017 (82 FR 41914), make the following corrections:

Corrections

(1) On page 41915 in the first column, second line, continues the paragraph from the previous page under item (2) of the Date section where the last sentence reads ''September 28, 2018'', replace with ''April 30, 2019'' in its place.

(2) On page 41917 in the first column, sixth paragraph, delete last sentence ''This tool is available only to project owners where all Agency mortgages on the property are maturing on or before December 31, 2023.''

(3) On page 41925 in the first, column second, paragraph replaced with the following:

''Complete project information must be submitted as soon as possible, but in no case later than April 30, 2019. MPR transfer applicants must submit a final transfer request as required by 7 CFR 3560.406 (c), no later than May 31, 2019. *These deadlines will not be extended, so please plan your transaction's timeline accordingly.*''

(4) On page 41925 in the first column, the third paragraph, is replaced with the following:

''Any pre-applications that have not received an Agency's Conditional Commitment for MPR funding, other than MPR deferral only transfers, will be considered withdrawn on August 30, 2019. MPR deferral only transfers approved subject to the availability of MPR funding will continue to be processed subject to the respective transfer approval conditions. *These deadlines will not be extended, so please plan your transaction's timeline accordingly. Applicants may reapply for funding under future rounds and/or Notices as they may be made available.*''

Dated: September 7, 2018.

Joel C. Baxley,

Administrator, Rural Housing Service.

[FR Doc. 2018–20215 Filed 9–17–18; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting on Tuesday October 9, 2018, at 12:00 p.m. CDT for the purpose of discussing civil rights concerns in the state.

DATES: The meeting will be held on Tuesday October 9, 2018, at 12:00 p.m. CDT.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: *Public Call Information:* Dial: 877–260–1479, Conference ID: 3938523.

Members of the public may listen to the discussion. This meeting is available to the public through the call in information listed above. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement to the Committee as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 230 South Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Illinois Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=246*). Select ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion:
  Voting Rights Op-Ed
  Civil Rights Project Proposal: Housing in Illinois
Public Comment
Future Plans and Actions
Adjournment

Dated: September 13, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–20229 Filed 9–17–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Minnesota Advisory Committee (Committee) to the Commission will be held at 12pm CDT Monday October 1, 2018 to discuss civil rights concerns in the State.

DATES: The meeting will be held on Monday October 1, 2018, at 12 p.m. CDT. For More Information Contact: Carolyn Allen at *callen@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: *Public Call Information:* Dial: 877–260–1479; Conference ID: 8636366.

This meeting is available to the public through the above toll-free call-in number. Any interested member of the

public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, Regional Programs Unit, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may be faxed to the Commission at (312) 353–8324, or emailed Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=256.* Please click on the ''Meeting Details'' and ''Documents'' links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome

II. Approval of Minutes

III. Discussion:

a. Op-Ed Draft: Policing in Minnesota

b. Civil Rights Topics

IV. Public Comment

V. Next Steps

VI. Adjournment

Dated: September 13, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–20230 Filed 9–17–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of the Census

National Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (Census Bureau) gives notice of a meeting of the National Advisory Committee on Racial, Ethnic and Other Populations (NAC). The NAC addresses policy, research, and technical issues relating to all Census Bureau programs and activities. These activities include the production and dissemination of detailed demographic and economic statistics across all program areas, including the Decennial Census Program.

DATES: November 1–2, 2018. On Thursday, November 1, the meeting will begin at 8:30 a.m. and end at 5:00 p.m. On Friday, November 2, the meeting will begin at 8:30 a.m. and end at 2:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Tara Dunlop Jackson, Committee Liaison Officer, at *tara.dunlop.jackson@census.gov,* Department of Commerce, U.S. Census Bureau, Room 8H177, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–5222. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The NAC is scheduled to meet in a plenary session on November 1–2, 2018. Planned topics of discussion include the following:

- 2020 Census program updates
- 2020 Census: Integrated Partnership and Communications Program
- 2020 Census: Hard-to-Count Operations
- Census Barriers, Attitudes, and Motivators Survey
- Working Group Updates

Please visit the Census Advisory Committees website for the most current meeting agenda at: *http://www.census.gov/about/cac.html.* The meeting will be available live via webcast at: *http://www.census.gov/newsroom/census-live.html.*

The NAC was established in March 2012 and operates in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10). The NAC members are appointed by the Director of the Census Bureau and provide recommendations to the Director on statistical and data collection issues on topics such as hard-to-reach populations, race and ethnicity, language, aging populations, American Indian and Alaska Native tribal considerations, populations affected by natural disasters, new immigrant populations, highly mobile and migrant populations, complex households, rural populations, and population segments with limited access to technology. The Committee also advises on data privacy and confidentiality, among other issues.

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on Friday, November 2. However, individuals with extensive questions or statements must submit them in writing to: *census.national.advisory.committee@census.gov* (subject line ''November 2018 NAC Meeting Public Comment'') or by letter submission to Tara Dunlop Jackson, Committee Liaison Officer, U.S. Department of Commerce, U.S. Census Bureau, Room 8H177, 4600 Silver Hill Road, Washington, DC 20233.

If you plan to attend the meeting, please register by Monday, October 23, 2018. You may access the online registration from the following link: *https://www.eventbrite.com/o/census-bureau-advisory-committees-17696466164?s=87828972.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Due to security protocols, for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: September 11, 2018.

Ron S. Jarmin,

Deputy Director, Performing the Non-Exclusive Functions and Duties of the Director, Bureau of the Census.

[FR Doc. 2018–20232 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Automated Export System Program

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before November 19, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kiesha Downs, Chief, Trade Regulations Branch, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–6700, (301) 763–7079, by fax (301) 763–8835 or by email *kiesha.downs@census.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Automated Export System (AES) or successor system is the instrument used for collecting export trade information from parties exporting goods from the United States. The U.S. Census Bureau compiles data collected through the AES and these data are the basis for the official U.S. goods export trade statistics. These statistics are used to determine the balance of international trade and are also designated for use as a principal federal economic indicator. Title 13, United States Code (U.S.C.), Chapter 9, Section 301 authorizes the U.S. Census Bureau to collect, compile and publish export trade data. Title 15, Code of Federal Regulations, Part 30, contains the regulatory provisions for preparing and filing the AES record in accordance to the Foreign Trade Regulations (FTR). These data are used in the development of U.S. Government policies that affect the economy. These data also enable U.S. businesses to develop practical export marketing strategies as well as provide a means for the assessment of the impact of exports on the domestic economy. In addition to being used in the development of U.S. government economic and foreign trade policies, these data are also used for export control, to detect and prevent the export of certain items by unauthorized parties or to unauthorized destinations or end users.

The FTR was amended on April 19, 2017, through the issuance of a Final Rule, ''Clarification on Filing Requirements,'' to make changes related to the implementation of the International Trade Data System (ITDS), in accordance with the Executive Order 13659, Streamlining the Export/Import Process for American Businesses. The ITDS was established by the Security and Accountability for Every (SAFE) Port Act of 2006. The ITDS is an electronic information exchange capability, or ''single window,'' through which businesses transmit the data required by participating agencies for the importation or exportation of cargo. This rule added the original Internal Transaction Number (ITN) data element in the AES. The Original ITN field is an optional field that may be utilized if the filer has to create an additional AES record for a shipment that was previously filed. The Original ITN field assists the export trade community and enforcement agencies in identifying that a filer completed the mandatory filing requirements for the original shipment. In doing so, this may decrease the issuance of unnecessary penalties for these types of shipments. Overall, these changes did not impact the reporting burden of the export trade community.

The FTR was also amended on April 24, 2018, through the issuance of a Final Rule, ''Clarification on the Collection and Confidentiality of Kimberley Process Certificates,'' to clarify that the data collected from the Kimberley Process Certificates (KPCs) are collected in compliance with the Clean Diamond Trade Act. In addition, this Rule clarified the submission requirements and permissible uses of the KPCs. However, these changes did not impact the reporting burden of the export trade community.

Currently, the Census Bureau is drafting a Notice of Proposed Rulemaking (NPRM) to clarify the responsibilities of parties participating in routed and standard export transactions. This rule also proposes to revise and add several key terms used in the regulatory provision of these transactions, including authorized agent, forwarding agent, standard export transaction and written release. While revisions to the FTR are necessary to improve clarity to the filing requirements for the routed export transaction, it is critical for the Census Bureau to ensure that any revisions made to the FTR will allow for the continued collection and compilation of accurate trade statistics. Additionally, it is important that the responsibilities of the U.S. Principal Party in Interest (USPPI) and the U.S. authorized agent are clearly defined to ensure that the Electronic Export Information is filed by the appropriate party to prevent receiving duplicate filings or in some cases, no filings. The changes proposed in the NPRM will not have an impact on the reporting burden of the export trade community.

II. Method of Collection

Except as noted in Title 15 CFR, Part 30, Section 30.2(a)(1)(iv), an electronic AES record is required for all export shipments valued more than $2,500 per Schedule B number from the United States, including Foreign Trade Zones located therein, Puerto Rico, and the U.S. Virgin Islands to foreign countries; for exports between the United States and Puerto Rico; and for exports to the U.S. Virgin Islands from the United States or Puerto Rico. Additionally, an AES record is required for the export of rough diamonds, used self-propelled vehicles and all exports requiring an export license from any other government agency or license exemption from the Department of State, regardless of value. An AES record is also required for exports with certain license exceptions from the Bureau of Industry and Security. The AES program is unique among Census Bureau statistical collections since it is not sent to respondents to solicit responses, as is the case with surveys. Filing export information via the AES is a mandatory process under Title 13 U.S.C., Chapter 9, Section 301. The export trade community can access the AES via a free internet-based system, AES*Direct,* or they can use software that connects directly with the U.S. CBP Automated Commercial Environment (ACE).

For exports to Canada, a Memorandum of Understanding (MOU) signed by CBP, Canada Border Services Agency, Statistics Canada, and the U.S. Census Bureau enables the United States to substitute Canadian import statistics for U.S. export statistics. Similarly, in accordance with the MOU, Canada substitutes U.S. import statistics for Canadian exports to the United States. This exchange of data eliminates the requirement for the export trade community to file the Electronic Export

Information (EEI) with the U.S. government for the majority of export shipments to Canada, thus resulting in the elimination of over eight million AES records annually. Export shipments to Canada of rough diamonds, used vehicles, or those that require a license must be filed through the AES. In addition, export shipments from the United States through Canada destined to a country other than Canada require an AES record.

In most instances, the USPPI or authorized agent must file EEI via the AES and annotate the commercial loading documents with the proof of filing citation prior to the export of a shipment. In instances where the AES filing is not required, the proper exemption or exclusion legend must be noted on the commercial loading documents per Section 30.7 of the FTR.

CBP is currently conducting pilots to test the functionality regarding the filing of export manifests for air, rail, and ocean cargo to the ACE. These pilots will further the ITDS initiatives set forth in the SAFE Port Act of 2006 and Executive Order 13659. It is CBP's intent to move export manifesting from the current paper-based system to an electronic system over the next several years. FTR Sections 30.7 and 30.45, require evidence of the proof of filing, post departure filing citation, AES downtime citation, exemption or exclusion legend on the bill of lading, air waybill, or other commercial loading documents. These annotations also appear in the electronic manifest submitted to CBP. Since filers use many variations to annotate commercial loading documents, the Census Bureau, CBP, and the trade community developed guidance to ensure that a standard format is reported in the electronic manifest. This information was published in FTR Letter #10 titled *Annotating the Electronic Manifest for U.S. Customs and Border Protection.*

The AES enables the U.S. government to significantly improve the quality, timeliness, and coverage of export statistics. Since July 1995, the Census Bureau and the CBP have utilized the AES to improve the reporting of export trade information, customer service, increase compliance with and enforcement of export laws, and to provide paperless reports of export information. The AES also enables the U.S. government to increase its ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users through electronic filing.

III. Data

OMB Control Number: 0607–0152.

Form Number(s): Automated Export System (AES) submissions.

Type of Review: Regular submission.

Affected Public: Exporters, Forwarding agents, Export Carriers.

Estimated Number of Respondents: 287,314 filers who submit 17,315,950 shipments annually through the AES.

Estimated Time per Response: 3 minutes per AES submission.

Estimated Total Annual Burden Hours: 865,798.

Estimated Total Annual Cost to Public: $15,688,260.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Chapter 9, Section 301.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–20205 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–32–2018]

Foreign-Trade Zone (FTZ) 230—Piedmont Triad Area, North Carolina; Authorization of Production Activity; Deere-Hitachi Construction Machinery Corp.; (Forestry Machinery, and Forestry Machinery and Hydraulic Excavator Frames/Booms/Arms); Kernersville, North Carolina

On May 11, 2018, Deere-Hitachi Construction Machinery Corp. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 230—Sites 30 and 32 in Kernersville, North Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 24084, May 24, 2018). On September 10, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 10, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–20255 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–30–2018]

Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico; Authorization of Production Activity; Lilly del Caribe; (Pharmaceutical Products); Carolina, Puerto Rico

On May 14, 2018, Lilly del Caribe submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 7K, in Carolina, Puerto Rico.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 23254, May 18, 2018). On September 11, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–20254 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–57–2018]

Foreign-Trade Zone (FTZ) 149—Freeport, Texas; Notification of Proposed Production Activity; DSM Nutritional Products, LLC; (Vinylol) Freeport, Texas

The Port of Freeport, grantee of FTZ 149, submitted a notification of proposed production activity to the FTZ Board on behalf of DSM Nutritional Products, LLC (DSM) (formerly Hoffmann-La Roche Inc.), located in Freeport, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on September 11, 2018.

DSM already has authority to produce beta carotene crystalline, C–25 aldehyde and vinyl salt within Subzone 149B. The current request would add a finished product (vinylol-pure and crude) to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific finished product described in the submitted notification and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt DSM from customs duty payments on the foreign-status materials/components in the existing scope of authority used in export production of vinylol-pure and crude. On its domestic sales, for the foreign-status materials/components in the existing scope of authority (duty rates, 3.7% or 5.5%), DSM would be able to choose the duty rate during customs entry procedures that applies to vinylol-pure and crude (duty rate 5.5%). DSM 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.

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 October 29, 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 Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: September 12, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–20256 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG300

Draft 2018 Marine Mammal Stock Assessment Reports

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

ACTION: Notice; request for comments and correction.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act. SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2018 SARs. NMFS also announces the availability of revised Atlantic Regional 2016 and 2017 SARs that include technical corrections.

DATES: Comments must be received by December 17, 2018.

ADDRESSES: The 2018 draft SARs are available in electronic form via the internet at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.* The revised final Atlantic Regional SAR for 2016 is available at *https://www.nefsc.noaa.gov/publications/tm/tm241/*and the revised 2017 SAR is available at *https://www.nefsc.noaa.gov/publications/tm/tm245/.*

Copies of the Alaska Regional SARs may be requested from Marcia Muto, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–6349.

Copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Elizabeth Josephson, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

You may submit comments, identified by NOAA–NMFS–2018–0086, by either of the following methods:

Federal e-Rulemaking Portal: Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0086,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Send comments or requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer, Office of Protected Resources, 301–427–8402, *Lisa.Lierheimer@noaa.gov;* Marcia Muto, 206–526–4026, *Marcia.Muto@noaa.gov,* regarding Alaska regional stock assessments; Elizabeth Josephson, 508–495–2362, *Elizabeth.Josephson@noaa.gov,* regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858–546–7171, *Jim.Carretta@noaa.gov,* regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the Exclusive Economic Zone. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury (M/SI) from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for

strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term ''strategic stock'' means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level or PBR (defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population); (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined.

Prior to public review, the updated SARs under NMFS' jurisdiction are peer-reviewed within NMFS Fisheries Science Centers and by members of three regional independent Scientific Review Groups, which were established under the MMPA to independently advise NMFS on information and uncertainties related to the status of marine mammals.

The period covered by the 2018 draft SARs is 2012–2016. NMFS reviewed the status of marine mammal stocks as required and revised a total of 47 reports representing 76 stocks in the Alaska, Atlantic, and Pacific regions to incorporate new information. The 2018 revisions consist primarily of updated or revised M/SI estimates and updated abundance estimates. One stock (Alaska bearded seal) changed in status from non-strategic to strategic, and three stocks (Gulf of Maine humpback whale, and Western North Atlantic short-finned and long-finned pilot whales) changed in status from strategic to non-strategic. Substantive revisions to the SARs are discussed below. NMFS solicits public comments on the draft 2018 SARs.

Alaska Reports

In 2018, NMFS reviewed all 45 stocks in the Alaska region, and revised SARs under NMFS jurisdiction for 18 stocks (14 strategic and 4 non-strategic). The Alaska bearded seal stock changed from ''non-strategic'' to ''strategic'' status because the stock is now considered depleted under the MMPA (see below). A list of the 18 reports revised in 2018 for stocks in the Alaska region is presented in Table 1. Information on the remaining Alaska region stocks can be found in the final 2017 reports (Muto *et al.,* 2018).

TABLE 1—LIST OF MARINE MAMMAL STOCKS IN THE ALASKA REGION REVISED IN 2018

Strategic stocks	Non-strategic stocks
• Steller sea lion, Western U.S. • northern fur seal, Eastern Pacific. • bearded seal, Alaska. • beluga whale, Cook Inlet. • killer whale, AT1 Transient. • harbor porpoise, Southeast Alaska. • harbor porpoise, Gulf of Alaska. • harbor porpoise, Bering Sea. • sperm whale, North Pacific. • humpback whale, Western North Pacific. • humpback whale, Central North Pacific. • fin whale, Northeast Pacific. • North Pacific right whale, Eastern North Pacific. • bowhead whale, Western Arctic.	• ribbon seal, Alaska. • Pacific white-sided dolphin, North Pacific. • Dall's porpoise, Alaska. • Minke whale, Alaska.

Revisions to the Alaska SARs included updates of abundance and/or M/SI estimates, including revised abundance estimates for Western U.S. Steller sea lion; Eastern Pacific northern fur seal; and Cook Inlet beluga whale.

Alaska Bearded Seal

In 2012, NMFS listed the Beringia distinct population segment of bearded seal, and thus the Alaska stock of bearded seal, as threatened under the ESA (77 FR 76740, December 28, 2012). The primary concern for this population is the ongoing and projected loss of sea-ice cover stemming from climate change, which is expected to pose a significant threat to the persistence of these seals in the foreseeable future. In 2014, the U.S. District Court for the District of Alaska issued a decision vacating NMFS' listing in a lawsuit that challenged listing bearded seals under the ESA (*Alaska Oil and Gas Association* v. *Pritzker, Case No. 4:13–cv–00018–RPB*). Consequently, it was also no longer designated as ''depleted'' or classified as a strategic stock. In 2016, the 9th Circuit Court of Appeals overturned the decision and approved the agency's protection of the seals; and in 2018, the U.S. Supreme Court declined a challenge to NMFS' listing decision. Thus, because of its threatened status under the ESA, this bearded seal stock is considered depleted under the Marine Mammal Protection Act andis now classified as a ''strategic'' stock.

Atlantic Reports

In 2018, NMFS reviewed all 117 stocks in the Atlantic region (including the Atlantic Ocean, Gulf of Mexico, and U.S. territories in the Caribbean) under NMFS jurisdiction. This year, NMFS revised 16 reports and created 2 new common bottlenose dolphin reports (West Bay and Terrebonne Bay/Timbalier Bay). These updated reports represent 42 stocks (26 strategic and 16 non-strategic). The Gulf of Maine humpback whale stock and Western North Atlantic (WNA) long-finned and short-finned pilot whale stocks changed from ''strategic'' to ''non-strategic'' status because the mean annual human-caused M/SI is below PBR (see below). A list of the 42 stocks in the Atlantic region (contained in 18 reports), is presented in Table 2. Information on the remaining Atlantic region stocks can be found in the final 2017 reports (Hayes *et al.,* 2018).

TABLE 2—LIST OF MARINE MAMMAL STOCKS IN THE ATLANTIC REGION REVISED IN 2018

Strategic stocks	Non-strategic stocks
• North Atlantic right whale, Western Atlantic. • fin whale, WNA. • common bottlenose dolphin (24 stocks).* ○ Laguna Madre. ○ Neuces Bay/Corpus Christi Bay. ○ Copano Bay/Aransas Bay/San Antonio Bay/Redfish Bay/Espiritu Santo Bay. ○ Matagorda Bay/Tres Palacios Bay/Lavaca Bay. ○ Galveson Bay/East Bay/Trinity Bay. ○ Sabine Lake. ○ Calcasieu Lake. ○ Vermilion Bay/West Cote Blanche Bay/Atchafalaya Bay. ○ Mississippi River Delta. ○ Mobile Bay/Bonsecour Bay. ○ Perdido Bay. ○ Pensacola Bay/East Bay. ○ St. Andrew Bay. ○ St. Vincent Sound/Apalachicola Bay/St. George Sound. ○ Apalachee Bay. ○ Waccassa Bay/Withlacoochee Bay/Crystal Bay. ○ St. Joseph Sound/Clearwater Harbor. ○ Tampa Bay. ○ Pine Island Sound/Charlotte Harbor/Gasparilla Sound/Lemon Bay. ○ Caloosahatchee River. ○ Estero Bay. ○ Chokoloskee Bay/Ten Thousand Islands/Gullivan Bay. ○ Whitewater Bay. ○ Florida Keys (Bahia Honda to Key West).	• humpback whale, Gulf of Maine. • minke whale, Canadian East Coast. • Risso's dolphin, WNA. • pilot whale, long-finned, WNA. • pilot whale, short-finned, WNA. • Atlantic white-sided dolphin, WNA. • common dolphin, WNA offshore. • rough-toothed dolphin, WNA. • harbor porpoise, Gulf of Maine/Bay of Fundy. • harbor seal, WNA. • gray seal, WNA. • harp seal, WNA. • hooded seal, WNA. • common bottlenose dolphin (3 stocks). ○ West Bay. ○ Terrebonne Bay/Timbalier Bay. ○ Sarasota Bay/Little Sarasota Bay.*

*Details for these 25 stocks are included in the report: Common bottlenose dolphin, Northern Gulf of Mexico Bay, Sound, and Estuary Stocks.

Revisions to the Atlantic SARs included updates of abundance and/or M/SI estimates. New abundance estimates are available for the North Atlantic right whale, Gulf of Maine humpback whale, WNA short-finned pilot whale, WNA rough-toothed dolphin, and the West Bay and Terrebonne Bay/Timbalier Bay common bottlenose dolphin stocks.

North Atlantic Right Whale, Western Atlantic

Although PBR analyses in this 2018 SAR reflect data collected through 2016, it should be noted that an additional 17 North Atlantic right whale mortalities were observed in 2017 (Daoust et al. 2017). This number exceeds the largest estimated mortality rate during the past 25 years. Further, despite the usual extensive survey effort, only 5 and 0 new calves were detected in 2017 and 2018, respectively. Therefore, the decline in the right whale population is expected to continue for at least an additional 2 years. The minimum population size for the Western Atlantic stock of the North Atlantic right whale is 445 and PBR is 0.9.

Humpback Whale, Gulf of Maine

The updated abundance estimate for the Gulf of Maine humpback whale stock is 896, based on a recent count of the minimum number alive (MNA). The 2015 humpback whale MNA was produced by counting the number of unique individuals seen in 2015 in the Gulf of Maine stock area as well as seen both before and after 2015. The 2015 humpback whale MNA includes not only cataloged whales but some calves born in 2015 but not yet identifiable. MNA is a rigorous accounting of individuals and has no associated coefficient of variation (CV). It is both more recent and larger than the previous 2011 line transect estimate of 335 and has zero probability of overestimating abundance. Although the abundance appears to increase from 2017 to 2018, these estimates should not be compared as they were derived using different methodologies and data sets. As a result of the higher abundance estimate, the PBR for the Gulf of Maine humpback whale stock increased from 3.7 to 14.6 whales. Based on a recovery factor of 0.5, the estimate of human-caused M/SI is now below PBR; thus, the stock has changed from ''strategic'' to ''non-strategic.''

Long-Finned Pilot Whale, Western North Atlantic

The PBR for the western North Atlantic long-finned pilot whale is 35 and the estimate of total annual observed average fishery-related of human-caused M/SI is 27. In bottom trawls and mid-water trawls and in the gillnet fisheries, mortalities were more generally observed north of 40° N latitude and in areas expected to have only long-finned pilot whales. Takes in these fisheries were therefore attributed to the long-finned pilot whales. Takes in the pelagic longline fishery were partitioned according to a logistic regression model (Garrison and Rosel 2017). Because the M/SI does not exceed PBR, the stock has changed from ''strategic'' to ''non-strategic.''

Short-Finned Pilot Whale, Western North Atlantic

The best available abundance estimate for short-finned pilot whales, based on shipboard surveys conducted during the summer of 2016 in the western North Atlantic, is 28,924. These most recent surveys covered the full range of short-finned pilot whales in U.S. Atlantic waters. Because long-finned and short-finned pilot whales are difficult to distinguish at sea, sightings data are reported as Globicephala sp. These survey data have been combined with an analysis of the spatial distribution of the two pilot whale species based on genetic analyses of biopsy samples to derive separate abundance estimates for each species. Due to changes in survey methodology, previous abundance

estimates should not be used to make comparisons with more current estimates. As a result of the higher abundance estimate, the PBR for the western North Atlantic short-finned pilot whale increased from 159 to 236 and the estimate of total annual observed average fishery-related of human-caused M/SI is 27. The estimate of human-caused M/SI is now below PBR; thus, the stock has changed from ''strategic'' to ''non-strategic.''

Common Bottlenose Dolphins

NMFS is in the process of writing individual stock assessment reports for each of the 31 bay, sound, and estuary stocks of common bottlenose dolphins in the northern Gulf of Mexico. Two new individual reports, for the West Bay and Terrebonne-Timbalier Bay Estuarine System stocks, were completed for the draft 2018 SARs. Therefore, the reader will not see tracked changes in the draft 2018 reports for these stocks. To date, six bottlenose dolphin stocks have individual reports completed (West Bay, Terrebonne-Timbalier Bay Estuarine System, Barataria Bay Estuarine System, Mississippi Sound/Lake Borgne/Bay Boudreau, Choctawhatchee Bay, and St. Joseph Bay), and the remaining 25 stocks are included in the Northern Gulf of Mexico Bay, Sound, and Estuary Stocks report.

Pacific Reports

In 2018, NMFS reviewed all 87 stocks in the Pacific region (waters along the west coast of the United States, within waters surrounding the main and Northwestern Hawaiian Islands, and within waters surrounding U.S. territories in the Western Pacific), and revised SARs for 16 stocks (7 strategic and 9 non-strategic). A list of the reports revised in 2018, representing 16 stocks in the Pacific region, is presented in Table 3. Information on the remaining Pacific region stocks can be found in the final 2017 reports (Carretta et al., 2018).

TABLE 3—LIST OF MARINE MAMMAL STOCKS IN THE PACIFIC REGION REVISED IN 2018

Strategic stocks	Non-strategic stocks
• Hawaiian monk seal • killer whale, Eastern N Pacific Southern Resident • humpback whale, CA/OR/WA • blue whale, Eastern N Pacific • fin whale, CA/OR/WA • sei whale, Eastern N Pacific	• California sea lion. • killer whale, Eastern N Pacific Offshore. • gray whale, Eastern N Pacific. • gray whale, Western N Pacific. • spinner dolphin: ○ Hawaii pelagic. ○ Hawaii Island. ○ O'ahu/4 Islands. ○ Kaua'i/Ni'ihau. ○ Kure/Midway. ○ Pearl and Hermes Reef.

New abundance estimates are available for 8 stocks: California sea lions, Hawaiian monk seals, Eastern North Pacific Offshore killer whales, Southern Resident killer whales, Eastern North Pacific gray whales, Western North Pacific gray whales, California/Oregon/Washington humpback whales, and Hawaii Island spinner dolphins.

New Methodology To Estimate Level of Vessel Strike Mortality: CA/OR/WA Humpback Whale, CA/OR/WA Fin Whale, and the Eastern North Pacific Blue Whales

New information on serious injury and mortality resulting from estimated vessel strikes based on an analysis by Rockwood *et al.* (2017) is included for the following stocks of large whales: CA/OR/WA humpback whale, CA/OR/WA fin whale, and the Eastern North Pacific blue whales. Using the moderate level of vessel avoidance, this model estimated the following annual mortality of these stocks of large whales due to ship strikes as follows: 22 humpback whales (representing approximately 0.7 percent of the estimated population size of the stock); 43 fin whales (representing approximately <0.5 percent of the estimated population size of the stock); and 18 blue whales (representing approximately 1 percent of the estimated population size of the stock. Based on this new methodology, estimated levels of vessel strike mortality exceed PBR for both Eastern North Pacific blue and CA/OR/WA humpback whale stocks, although estimated vessel strike levels represent a small fraction of the overall estimated population sizes. Estimated vessel strikes are also compared with recent detected levels of vessel strikes, which indicate that detection rates for vessel strike events are quite low, ranging from approximately 1 percent (for blue whales) to 12 percent (for humpback whales). There is uncertainty regarding the estimated number of ship strike deaths as carcass recovery rates are quite low.

New Methodology To Assign Cases of Entangled but Unidentified Whales to Stock: CA/OR/WA Humpback Whale, CA/OR/WA Fin Whale, Eastern North Pacific Gray Whale, and Eastern North Pacific Blue Whales

Unidentified whales represent approximately 15 percent of entanglement cases along the U.S. West Coast. In previous stock assessments, unidentified entanglements were not assigned to stock. For large whale stocks, including gray, humpback, blue, and fin whales, a new methodology based on an assignment model generated from historic known-species entanglements in the region was used to assign previous cases of unidentified whale entanglements to species (Carretta 2018). This has eliminated a negative bias in assessments that occurs when unidentified whale entanglements are not assigned to any species/stock. In the case of CA/OR/WA humpback whales, observed levels of entanglements and vessel strikes combined exceed PBR.

New Methodology To Calculate the Minimum Population Estimate (Nmin) for California Sea Lion

The 2018 SAR for California sea lions uses a different methodology for estimating Nmin. The updated minimum population size of the U.S. stock is 233,515 (153,337 in 2014 SAR). This resulted in an increase in PBR from 9,200 (in 2014) to 14,011. The updated best abundance estimate available for California sea lions, based on a 1975–2014 time series of pup counts, combined with mark-recapture estimates of survival rates, is 257,606 sea lions (Laake *et al.,* 2018) (down from 296,750 in 2014 SAR).

The previous approach to calculate Nmin used two times the annual pup

count, which resulted in negatively-biased Nmin values because not all age classes are represented. The Guidelines for preparing Stock Assessment Reports (NMFS 2016) recommends defining Nmin as the 20th percentile of a log-normal distribution based on an estimate of the number of animals in a stock (which is equivalent to the lower limit of a 60% 2-tailed confidence interval). The Guidelines allow for other approaches to be used to estimate Nmin if they provide an adequate level of assurance that the stock size is equal to or greater than that estimate. Laake *et al.* (2018) did not provide a CV for the estimated population size, so the updated Nmin is based on the lower 95 percent confidence limit. The stock is estimated to be approximately 40 percent above its maximum net productivity level (MNPL = 183,481 animals), and it is therefore considered within the range of its optimum sustainable population. The carrying capacity of the population was estimated at 275,298 animals in 2014 (Laake *et al.* 2018). The total human caused mortality is less than the PBR of 14,011.

Corrections to the 2016 and 2017 SARs

Subsequent to announcing the availability of the final 2016 (82 FR 29039, June 27, 2017) and 2017 (83 FR 32093, July 11, 2018) SARs, we were made aware that the SARs contained some technical errors. In the 2016 North Atlantic right whale SAR, the PBR was listed incorrectly as 1. The correct PBR value for 2016 is 0.9. Similarly, in the 2017 North Atlantic right whale SAR, PBR was listed as 1.4, but the correct value is 0.9. In addition, the 2017 SAR for the WNA Central Florida Coastal Stock of common bottlenose dolphins contained a technical error. In the ''Population Size'' section, the name of the stock was incorrectly listed as the ''Northern'' Florida Coastal Stock instead of the ''Central'' Florida Coastal Stock. We have corrected the errors and posted revised versions of the 2016 and 2017 North Atlantic right whale SARs and 2017 WNA Central Florida Coastal Stock common bottlenose dolphin SAR on the NMFS website (see **ADDRESSES**). With this **Federal Register** notice, we are notifying the public about the revised versions.

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Dated: September 12, 2018.

Catherine E. Tortorici,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–20185 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG451

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Northwest Fisheries Science Center Fisheries Research

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

ACTION: Notice of issuance of Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the NMFS Northwest Fisheries Science Center (NWFSC) for the take of marine mammals incidental to fisheries research conducted in the Pacific Ocean, including Puget Sound and the Columbia River.

DATES: The authorization is effective from August 27, 2018, through August 28, 2023.

ADDRESSES: The LOA and supporting documentation is available online: *www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-nwfsc-fisheries-and-ecosystem-research*. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Paragraphs 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1371(a)(5)(A) and (D)) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i)

has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On August 10, 2015, we received an adequate and complete request from NWFSC for authorization to take marine mammals incidental to fisheries research activities. On June 13, 2016 (81 FR 38516), we published a notice of proposed rulemaking in the **Federal Register**, requesting comments and information related to the proposed rule for thirty days. The final rule was published in the **Federal Register** on July 27, 2018 (83 FR 36370). For detailed information on this action, please refer to those documents. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during fisheries research activities in the specified geographic region.

NWFSC conducts fisheries research using trawl gear used at various levels in the water column, longlines with multiple hooks, seine nets, and other gear. If a marine mammal interacts with gear deployed by NWFSC, the outcome could potentially be Level A harassment, serious injury (*i.e.,* any injury that will likely result in mortality), or mortality. We pooled the estimated number of incidents of take resulting from gear interactions and assessed the potential impacts accordingly. NWFSC also uses various active acoustic devices in the conduct of fisheries research, and use of these devices has the potential to result in Level B harassment of marine mammals. Level B harassment of pinnipeds hauled out on land may also occur as a result of visual disturbance from vessels conducting NWFSC research. NWFSC is authorized to take individuals of sixteen species by Level A harassment, serious injury, or mortality and of 28 species by Level B harassment.

Authorization

We have issued an LOA to NWFSC authorizing the take of marine mammals incidental to fishery research activities, as described above. Take of marine mammals will be minimized through implementation of the following mitigation measures: (1) Implementation of a ''move-on'' rule in certain circumstances that is expected to reduce the potential for physical interaction with marine mammals; (2) use of a marine mammal excluder device in certain trawl nets; and (3) use of acoustic deterrent devices on certain trawl nets. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The NWFSC will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under these LOAs will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: August 27, 2018.

Cathryn E. Tortorici,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–20186 Filed 9–17–18; 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.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Aleutian Islands Pollock Fishery Requirements.

OMB Control Number: 0648–0513.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved collection).

Number of Respondents: 1.

Average Hours per Response: 16.

Burden Hours: 16.

Needs and Uses: This request is for extension of a currently approved collection.

Amendment 82 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) established a framework for the management of the Aleutian Islands subarea (AI) directed pollock fishery. An AI pollock fishery was allocated to the Aleut Corporation, Adak, Alaska, for the purpose of economic development in Adak, Alaska. The Aleut Corporation is identified in Public Law 108–199 as a business incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*). Regulations implementing the FMP appear at 50 CFR part 679.

Each year at least 14 days before harvesting pollock or processing pollock in the AI directed pollock fishery, the Aleut Corporation selects harvesting vessels and processors for participation in this fishery. The Aleut Corporation submits its selected participants to the National Marine Fisheries Service (NMFS) for approval. On approval, NMFS mails the Aleut Corporation a letter that includes a list of the approved participants. A copy of this letter must be retained on board each participating vessel and on site each shoreside processor at all times.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

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: September 13, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–20212 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Coastal and Estuarine Land Conservation Planning, Protection or Restoration

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 19, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Patmarie Nedelka, (301) 713–3155 ext. 127 or *Patmarie.Nedelka@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. NOAA has, or is given, authority under the Coastal Zone Management Act (CZMA), annual appropriations or other authorities, to issue funds to coastal states, localities or other recipients for planning, conservation, acquisition, protection, restoration, or construction projects. The required information enables NOAA to implement the CELCP, under its current or future authorization, and facilitate the review of similar projects under different, but related, authorities.

This includes projects funded through:

- The Coastal and Estuarine Land Conservation Program (CZMA Section 307A) to protect important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion, and procedures for eligible applicants who choose to participate in the program to use when developing state conservation plans, proposing or soliciting projects under this program, applying for funds, and carrying out projects under this program in a manner that is consistent with the purposes of the program pursuant to program guidelines which can be found on NOAA's website at: *www.coast.noaa.gov/czm/landconservation/* or may be obtained upon request via the contact information listed above.
- The National Estuarine Research Reserve System (CZMA Section 315) Land Acquisition and Construction program.
- The Coastal Zone Management Program's low-cost acquisition and construction program (CZMA Section 306A), or the
- Fish and Wildlife Coordination Act.

II. Method of Collection

Electronic formats are the preferred method for submitting CELCP plans, project applications, performance reports and other required materials. However, respondents may submit materials in electronic or paper formats. Project applications are normally submitted electronically via *Grants.gov*, but may be submitted by mail in paper form if electronic submittal is not a viable option. Methods of submittal for plans, performance reports or other required materials may include electronic submittal via email or NOAA Grants Online, mail and facsimile transmission of paper forms, or submittal of electronic files on compact disc.

III. Data

OMB Control Number: 0648–0459.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: State, Local, or Tribal Government; not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time per Response: CELCP Plans, 120 hours to develop, 35 hours to revise or update; project application and checklist, 20 hours; semi-annual and annual reporting, 5 hours each.

Estimated Total Annual Burden Hours: 1,410.

Estimated Total Annual Cost to Public: $205 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 13, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–20208 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–08–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: Application for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act.

OMB Control Number: 0648–0293.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 600.

Average Hours per Response: 15 minutes.

Burden Hours: 150.

Needs and Uses: This request is for extension of a currently approved information collection.

The Marine Mammal Protection Act requires any commercial fisherman operating in Category I and II fisheries to register for a certificate of authorization that will allow the fisherman to take marine mammals incidental to commercial fishing operations. Category I and II fisheries are those identified by NOAA as having either frequent or occasional takings of marine mammals. All states have integrated the National Marine Fisheries Service (NMFS) registration process into the existing state fishery registration process and vessel owners do not need to file a separate federal registration. If applicable, vessel owners will be notified of this simplified registration process when they apply for their state or Federal permit or license.

Affected Public: Business or other for-profit organizations; Individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

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: September 13, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–20207 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; U.S. Territorial Catch and Fishing Effort Limits

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

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 19, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, NMFS Pacific Islands Regional Office, (808) 725–5175, or *Walter.Ikehara@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP) contains a process under the authority of the Magnuson-Stevens Fishery Conservation and Management Act to specify catch and/or fishing effort limits for management unit species caught by pelagic fisheries in the U.S. participating territories. The process allows NMFS to authorize the government of each U.S. participating territory to allocate a portion of its catch or fishing effort limit to a U.S. fishing vessel permitted under the FEP through specified fishing agreements. These agreements support fisheries development in the U.S. participating territories (see 50 CFR 665.819).

A specified fishing agreement provides access to an identified portion of a catch or fishing effort limit and may not exceed the amount specified for the territory and made available for allocation. The identified portion of a catch or fishing effort limit in an agreement must account for recent and anticipated harvest on the stock or stock complex or fishing effort, and any other valid agreements with the territory during the same year not to exceed the territory's catch or fishing effort limit or allocation limit. Each participating territory may submit a complete specified fishing agreement for review and approval by the Western Pacific Fishery Management Council and NMFS. The agreement must (a) identify the vessels and document that each fishing vessel has a valid permit issued under 50 CFR 665.801, (b) identify the limit on catch of western Pacific pelagic management unit species, if applicable, (c) identify the limit on fishing effort, if applicable, (d) be signed by an authorized official of the participating territory or designated representative, and (e) be signed by each vessel owner or designated representative.

II. Method of Collection

There is no form for an agreement. Agreements may be submitted by mail or fax.

III. Data

OMB Control Number: 0648–0689.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households; business or other for-profit organizations; State or Territorial government.

Estimated Number of Respondents: 9.

Estimated Time per Response: 6 hours per agreement; 2 hours per appeal.

Estimated Total Annual Burden Hours: 56 (estimating one appeal per year)

Estimated Total Annual Cost to Public: $95 ($10 per agreement, $5 per appeal) for copying and mailing or for faxing.

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 13, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–20227 Filed 9–17–18; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps Child Care Benefit Forms; Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps Child Care Benefit Forms for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by October 18, 2018.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Courtney Russell, at 202–606–6723 or by email to *crussell@cns.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on July 6, 2018 at 83 FR 31531. This comment period ended September 4, 2018. No public comments were received from this Notice.

Title of Collection: AmeriCorps Child Care Benefit Forms.

OMB Control Number: 3045–0142.

Type of Review: Renewal.

Respondents/Affected Public: AmeriCorps members and child care providers for AmeriCorps members.

Total Estimated Number of Annual Responses: 750 members, 1,500 child care providers.

Total Estimated Number of Annual Burden Hours: 1,313 hours.

Abstract: CNCS is soliciting comments concerning its Child Care application forms. These forms are submitted by members of AmeriCorps and by the child care providers identified by the member for the purpose of applying for, and receiving payment for, the care of children during the day while the member is in service. Completion of this information is required to be approved and required to receive payment for invoices. CNCS also seeks to continue using the currently approved information collection until the revised information collection is approved by OMB. CNCS seeks to renew the current information collection. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on October 31, 2018.

Dated: September 12, 2018.

E. Dahlin,

Deputy Chief of Program Operations.

[FR Doc. 2018–20175 Filed 9–17–18; 8:45 am]

BILLING CODE 6050–28–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Senior Executive Service Performance Review Board Membership

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice.

SUMMARY: This notice sets forth the names and titles of the current membership of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Performance Review Board as of October 1, 2018.

DATES: This list is current as of October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Individual Offices of Inspectors General at the telephone numbers listed below.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Act of 1978, as amended, created the Offices of Inspectors General as independent and objective units to conduct and supervise audits and investigations relating to Federal programs and operations. The Inspector General Reform Act of 2008, established the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of Inspectors General. The CIGIE is an interagency council whose executive chair is the Deputy Director for Management, Office of Management and Budget, and is comprised principally of the 73 Inspectors General (IGs).

II. CIGIE Performance Review Board

Under 5 U.S.C. 4314(c)(1)–(5), and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current members of the Council of the Inspectors General on Integrity and Efficiency Performance Review Board, as of October 1, 2018, are as follows:

Agency for International Development

Phone Number: (202) 712–1150

CIGIE Liaison—Justin Brown (202) 712–1150

Daniel Altman—Assistant Inspector General for Investigations.

Thomas Yatsco—Assistant Inspector General for Audit.

Jason Carroll—Assistant Inspector General for Management.

Nicole Angarella—General Counsel to the Inspector General.

Alvin A. Brown—Deputy Assistant Inspector General for Audit.

Department of Agriculture

Phone Number: (202) 720–8001

CIGIE Liaison—Angel N. Bethea (202) 720–8001

Christy A. Slamowitz—Counsel to the Inspector General.

Gilroy Harden—Assistant Inspector General for Audit.

Steven H. Rickrode, Jr.—Deputy Assistant Inspector General for Audit.

Yarisis Rivera Rojas—Deputy Assistant Inspector General for Audit.

Ann M. Coffey—Assistant Inspector General for Investigations.

Peter P. Paradis, Sr.—Deputy Assistant Inspector General for Investigations.

Virginia E. B. Rone—Assistant Inspector General for Data Sciences.

Robert J. Huttenlocker—Assistant Inspector General for Management.

Department of Commerce

Phone Number: (202) 482–4661

CIGIE Liaison—Clark Reid (202) 482–4661

Allen Crawley—Deputy Inspector General.

E. Wade Green—Counsel to the Inspector General.

Richard Bachman—Assistant Inspector General for Audits.

Carol Rice—Assistant Inspector General for Audits.

Mark Zabarsky—Principal Assistant Inspector General.

Department of Defense

Phone Number: (703) 604–8324

Acting CIGIE Liaison—Brett Mansfield (703) 604–8300

Daniel R. Blair—Deputy Chief of Staff.
Michael S. Child, Sr.—Deputy Inspector General for Overseas Contingency Operations.
Carol N. Gorman—Assistant Inspector General for Readiness and Cyber Operations.
Carolyn R. Hantz—Assistant Inspector General for Audit Policy and Oversight.
Glenn A. Fine—Principal Deputy Inspector General.
Janice M. Flores—Assistant Inspector General for Investigations, Internal Operations.
Marguerite C. Garrison—Deputy Inspector General for Administrative Investigations.
Theresa S. Hull—Assistant Inspector General for Acquisition and Sustainment Management.
Kelly P. Mayo—Assistant Inspector General for Investigations.
Troy M. Meyer—Principal Assistant Inspector General for Audit.
Kenneth P. Moorefield—Deputy Inspector General for Special Plans and Operations.
Dermot F. O'Reilly—Deputy Inspector General for Investigations.
Michael J. Roark—Assistant Inspector General for Contract Management and Payment.
Steven A. Stebbins—Chief of Staff.
Randolph R. Stone—Deputy Inspector General for Policy and Oversight.
Lorin T. Venable—Assistant Inspector General for Financial Management and Reporting.
Jacqueline L. Wicecarver—Deputy Inspector General for Audit.

Department of Education

Phone Number: (202) 245–6900

CIGIE Liaison—Keith Maddox (202) 748–4339

David Morris—Assistant Inspector General for Management Services.
Bryon Gordon—Assistant Inspector General for Audit.
Aaron Jordan—Assistant Inspector General for Investigations.
Mark Smith—Deputy Assistant Inspector General for Investigations.

Department of Energy

Phone Number: (202) 586–4393

CIGIE Liaison—Dustin Wright (202) 586–1947

April Stephenson—Principal Deputy Inspector General.
Virginia Grebasch—Counsel to the Inspector General.
Michelle Anderson—Deputy Inspector General for Audits and Inspections.
John Dupuy—Deputy Inspector General for Investigations.
Dustin Wright—Assistant Inspector General for Investigations.
Sarah Nelson—Assistant Inspector General for Audits and Administration.
Jennifer Quinones—Assistant Inspector General for Audits and Inspections—Eastern.
Bruce Miller—Assistant Inspector General for Audits and Inspections—Western.
Jack Rouch—Deputy Assistant Inspector General for Audits.
Debra Solmonson—Deputy Assistant Inspector General for Audits and Inspections.
John McCoy II—Deputy Assistant Inspector General for Audits.

Environmental Protection Agency

CIGIE Liaison—Jennifer Kaplan (202) 566–0918

Charles Sheehan—Deputy Inspector General.
Alan Larsen—Counsel to the Inspector General and Assistant Inspector General for Congressional and Public Affairs.
Kevin Christensen—Assistant Inspector General for Audits and Evaluation.
Edward Shields—Assistant Inspector General for Management.

Federal Labor Relations Authority

Phone Number: (202) 218–7744

CIGIE Liaison—Dana Rooney (202) 218–7744

Dana Rooney—Inspector General.

Federal Maritime Commission

Phone Number: (202) 523–5863

CIGIE Liaison—Jon Hatfield (202) 523–5863

Jon Hatfield—Inspector General.

Federal Trade Commission

Phone Number: (202) 326–2355

CIGIE Liaison—Andrew Katsaros (202) 326–2355

Andrew Katsaros—Acting Inspector General.

General Services Administration

Phone Number: (202) 501–0450

CIGIE Liaison—Jennifer Ross (202) 273–3042

Robert C. Erickson—Deputy Inspector General.
Larry L. Gregg—Associate Inspector General.
Edward Martin—Counsel to the Inspector General.
R. Nicholas Goco—Assistant Inspector General for Audits.
Barbara Bouldin—Deputy Assistant Inspector General for Acquisition Program Audits.
Brian Gibson—Deputy Assistant Inspector General for Real Property Audits.
James E. Adams—Assistant Inspector General for Investigations.
Patricia D. Sheehan—Assistant Inspector General for Inspections.

Department of Health and Human Services

Phone Number: (202) 619–3148

CIGIE Liaison—Elise Stein (202) 619–2686

Joanne Chiedi—Principal Deputy Inspector General.
Christi Grimm—Chief of Staff.
Robert Owens, Jr.—Deputy Inspector General for Management and Policy.
Caryl Brzymialkiewicz—Assistant Inspector General/Chief Data Officer.
Chris Chilbert—Assistant Inspector General/Chief Information Officer.
Gary Cantrell—Deputy Inspector General for Investigations.
Les Hollie—Assistant Inspector General for Investigations.
Thomas O'Donnell—Assistant Inspector General for Investigations.
Suzanne Murrin—Deputy Inspector General for Evaluation and Inspections.
Erin Bliss—Assistant Inspector General for Evaluation and Inspections.
Ann Maxwell—Assistant Inspector General for Evaluation and Inspections.
Gregory Demske—Chief Counsel to the Inspector General.
Robert DeConti—Assistant Inspector General for Legal Affairs.
Lisa Re—Assistant Inspector General for Legal Affairs.
Gloria Jarmon—Deputy Inspector General for Audit Services.
Amy Frontz—Assistant Inspector General for Audit Services.
Carrie Hug—Assistant Inspector General for Audit Services.
Brian Ritchie—Assistant Inspector General for Audit Services.

Department of Homeland Security

Phone Number: (202) 981–6000

CIGIE Liaison—Erica Paulson (202) 981–6392

John Kelly—Acting Inspector General/Deputy Inspector General.
Jennifer Costello—Chief Operating Officer/Acting Assistant Inspector General for Inspections and Evaluations.
Diana Shaw—Assistant Inspector General for Legal Affairs.

Donald Bumgardner—Deputy Assistant Inspector General for Audits.
Maureen Duddy—Deputy Assistant Inspector General for Audits.
Erica Paulson—Assistant Inspector General for External Affairs.
Sondra McCauley—Assistant Inspector General for Information Technology Audits/Acting Assistant Inspector General for Audits.
Michele Kennedy—Assistant Inspector General for Investigations.
Dennis McGunagle—Deputy Assistant Inspector General for Investigations.
Thomas Salmon—Assistant Inspector General for Integrity and Quality Oversight.
Louise M. McGlathery—Assistant Inspector General for Management.

Department of Housing and Urban Development

Phone Number: (202) 708–0430

CIGIE Liaison—Michael White (202) 402–8410

Nicholas Padilla—Assistant Inspector General for Investigation.
Robert Kwalwasser—Deputy Assistant Inspector General for Investigation.
Frank Rokosz—Deputy Assistant Inspector General for Audit.
John Buck—Deputy Assistant Inspector General for Audit.
Kimberly Randall—Deputy Assistant Inspector General for Audit.
Laura Farrior—Deputy Assistant Inspector General for Management.
Christopher Webber—Deputy Assistant Inspector General for Information Technology.
Jeremy Kirkland—Counsel to the Inspector General.
Brian Pattison—Assistant Inspector General for Evaluation.

Department of the Interior

Phone Number: (202) 208–5635

CIGIE Liaison—Karen Edwards (202) 208–5635

Mary Kendall—Deputy Inspector General (Acting).
Steve Hardgrove—Chief of Staff.
Kimberly McGovern—Assistant Inspector General for Audits, Inspections and Evaluations.
Matthew Elliott—Assistant Inspector General for Investigations.
Bruce Delaplaine—General Counsel.
Roderick Anderson—Assistant Inspector General for Management.

Department of Justice

Phone Number: (202) 514–3435

CIGIE Liaison—John Lavinsky (202) 514–3435

William M. Blier—Deputy Inspector General.
Michael Sean O'Neill—Assistant Inspector General for Oversight and Review.
Jason R. Malmstrom—Assistant Inspector General for Audit.
Mark L. Hayes—Deputy Assistant Inspector General for Audit.
Eric A. Johnson—Assistant Inspector General for Investigations.
Margaret Elise Chawaga—Deputy Assistant Inspector General for Investigations.
Nina S. Pelletier—Assistant Inspector General for Evaluation and Inspections.
Gregory T. Peters—Assistant Inspector General for Management and Planning.
Cynthia Lowell—Deputy Assistant Inspector for Management and Planning.

Department of Labor

Phone Number: (202) 693–5100

CIGIE Liaison—Luiz A. Santos (202) 693–7062

Larry D. Turner—Deputy Inspector General.
Dee Thompson—Counsel to the Inspector General.
Elliot P. Lewis—Assistant Inspector General for Audit.
Debra D. Pettitt—Deputy Assistant Inspector General for Audit.
Laura B. Nicolosi—Deputy Assistant Inspector General for Audit.
Cheryl Garcia—Assistant Inspector General for Investigations—Labor Racketeering and Fraud.
Leia Burks—Deputy Assistant Inspector General for Investigations—Labor Racketeering and Fraud.
Thomas D. Williams—Assistant Inspector General for Management and Policy.
Charles Sabatos—Deputy Assistant Inspector General for Management and Policy.
Luiz A. Santos—Assistant Inspector General for Congressional and Public Relations.
Jessica Southwell—Chief Performance and Risk Management Officer.

National Aeronautics and Space Administration

Phone Number: (202) 358–1220

CIGIE Liaison—Renee Juhans (202) 358–1712

George A. Scott—Deputy Inspector General.
Frank LaRocca—Counsel to the Inspector General.
James R. Ives—Assistant Inspector General for Investigations.
James L. Morrison—Assistant Inspector General for Audits.
Ross W. Weiland—Assistant Inspector General for Management Planning.

National Archives and Records Administration

Phone Number: (301) 837–3000

CIGIE Liaison—John Simms (301) 837–3000

Jewel Butler—Assistant Inspector General for Audit.
Jason Metrick—Assistant Inspector General for Investigations.

National Labor Relations Board

Phone Number: (202) 273–1960

CIGIE Liaison—Robert Brennan (202) 273–1960

David P. Berry—Inspector General.

National Science Foundation

Phone Number: (703) 292–7100

CIGIE Liaison—Lisa Vonder Haar (703) 292–2989

Megan Wallace—Assistant Inspector General for Investigations.
Mark Bell—Assistant Inspector General for Audits.
Alan Boehm—Assistant Inspector General for Management.
Ken Chason—Counsel to the Inspector General.

Nuclear Regulatory Commission

Phone Number: (301) 415–5930

CIGIE Liaison—Judy Gordon (301) 415–5913

David C. Lee—Deputy Inspector General.
Rocco J. Pierri—Assistant Inspector General for Investigations.
Brett M. Baker—Assistant Inspector General for Audits.

Office of Personnel Management

Phone Number: (202) 606–1200

CIGIE Liaison—Kevin T. Miller (202) 606–2030

Norbert E. Vint—Deputy Inspector General/Acting Inspector General.
Michael R. Esser—Assistant Inspector General for Audits.
Melissa D. Brown—Deputy Assistant Inspector General for Audits.
Lewis F. Parker, Jr.—Deputy Assistant Inspector General for Audits.
Drew M. Grimm—Assistant Inspector General for Investigations.
Thomas W. South—Deputy Assistant Inspector General for Investigations.
James L. Ropelewski—Assistant Inspector General for Management.
Nicholas E. Hoyle—Deputy Assistant Inspector General for Management.
Gopala Seelamneni—Chief Information Technology Officer.

Peace Corps

Phone Number: (202) 692–2900

CIGIE Liaison—Joaquin Ferrao (202) 692–2921

Kathy Buller—Inspector General (Foreign Service).

Joaquin Ferrao—Deputy Inspector General and Legal Counsel (Foreign Service).

United States Postal Service

Phone Number: (703) 248–2100

CIGIE Liaison—Agapi Doulaveris (703) 248–2286

Elizabeth Martin—General Counsel.

Gladis Griffith—Deputy General Counsel.

Mark Duda—Assistant Inspector General for Audits.

Railroad Retirement Board

Phone Number: (312) 751–4690

CIGIE Liaison—Jill Roellig (312) 751–4993

Patricia A. Marshall—Counsel to the Inspector General.

Heather Dunahoo—Assistant Inspector General for Audit.

Louis Rossignuolo—Assistant Inspector General for Investigations.

Small Business Administration

Phone Number: (202) 205–6586

CIGIE Liaison—Sheldon R. Shoemaker (202) 205–0080

Mark P. Hines—Assistant Inspector General for Investigations.

Andrea Deadwyler—Assistant Inspector General for Audits.

Social Security Administration

Phone Number: (410) 966–8385

CIGIE Liaison—Walter E. Bayer, Jr. (202) 358–6319

Gale Stallworth Stone—Deputy Inspector General/Acting Inspector General.

Steven L. Schaeffer—Chief of Staff.

Rona Lawson—Assistant Inspector General for Audit.

Kimberly Byrd—Deputy Assistant Inspector General for Audit.

Joseph Gangloff—Chief Counsel to the Inspector General.

Michael Robinson—Senior Advisor to the Inspector General for Law Enforcement.

Jennifer Walker—Deputy Assistant Inspector General for Investigations/ Acting Assistant Inspector General for Investigations.

Joscelyn Funnié—Deputy Assistant Inspector General for Communications and Resource Management/Acting Assistant Inspector General for Communications and Resource Management.

Special Inspector General for the Troubled Asset Relief Program

Phone Number: (202) 622–1419

CIGIE Liaison—Kevin Gerrity (202) 622–8670

Christopher Bosland—Deputy Chief of Staff.

Department of State and the Broadcasting Board of Governors

Phone Number: (571) 348–3804

CIGIE Liaison—Sarah Breen (571) 348–3992

Emilia DiSanto—Deputy Inspector General.

Michael H. Mobbs—General Counsel.

Norman P. Brown—Assistant Inspector General for Audits.

Sandra J. Lewis—Assistant Inspector General for Inspections.

Michael T. Ryan—Assistant Inspector General for Investigations.

Cathy D. Alix—Assistant Inspector General for Management.

Karen J. Ouzts—Assistant Inspector General for Enterprise Risk Management.

Kevin S. Donohue—Deputy General Counsel.

Gayle L. Voshell—Deputy Assistant Inspector General for Audits.

Tinh T. Nguyen—Deputy Assistant Inspector General for Audits, Middle East Region Operations.

Lisa R. Rodely—Deputy Assistant Inspector General for Inspections.

Jeffrey D. Johnson—Deputy Assistant Inspector General for Inspections.

Brian Grossman—Deputy Assistant Inspector General for Investigations.

Donna J. Butler— Deputy Assistant Inspector General for Management.

Department of Transportation

Phone Number: (202) 366–1959

CIGIE Liaison—Nathan P. Richmond: (202) 493–0422

Mitchell L. Behm—Deputy Inspector General.

Brian A. Dettelbach—Assistant Inspector General for Legal, Legislative, and External Affairs.

Dr. Eileen Ennis—Assistant Inspector General for Administration and Management.

Michelle T. McVicker—Principal Assistant Inspector General for Investigations.

Max Smith—Deputy Assistant Inspector General for Investigations.

Joseph W. Comé—Principal Assistant Inspector General for Auditing and Evaluation.

Charles A. Ward—Assistant Inspector General for Audit Operations and Special Reviews.

Matthew E. Hampton—Assistant Inspector General for Aviation Audits.

Barry DeWeese—Assistant Inspector General for Surface Transportation Audits.

Louis C. King—Assistant Inspector General for Financial and Information Technology Audits.

Mary Kay Langan-Feirson—Assistant Inspector General for Acquisition and Procurement Audits.

David Pouliott—Deputy Assistant Inspector General for Surface Transportation Audits.

Anthony Zakel—Deputy Assistant Inspector General for Aviation Audits.

Department of the Treasury

Phone Number: (202) 622–1090

CIGIE Liaison—Rich Delmar (202) 927–3973

Richard K. Delmar—Counsel to the Inspector General.

Tricia L. Hollis—Assistant Inspector General for Management.

John L. Phillips—Assistant Inspector General for Investigations.

Jerry S. Marshall—Deputy Assistant Inspector General for Investigations.

Deborah L. Harker—Assistant Inspector General for Audit.

Pauletta Battle—Deputy Assistant Inspector General for Financial Management and Transparency Audits.

Lisa A. Carter—Deputy Assistant Inspector General for Financial Sector Audits.

Donna F. Joseph—Deputy Assistant Inspector General for Cyber and Financial Assistance Audits.

Treasury Inspector General for Tax Administration/Department of the Treasury

Phone Number: (202) 622–6500

CIGIE Liaison—David Barnes (Acting) (202) 622–3062

Thomas Carter—Deputy Chief Counsel.

Gladys Hernandez—Chief Counsel.

James Jackson—Deputy Inspector General for Investigations.

Gregory Kutz—Acting Deputy Inspector General for Inspections and Evaluations/Assistant Inspector General for Audit (Management Services & Exempt Organizations).

Nancy LaManna—Assistant Inspector General for Audit (Management, Planning & Workforce Development).

Russell Martin—Assistant Inspector General for Audit (Returns Processing & Account Services).

Michael McKenney—Deputy Inspector General for Audit.

Randy Silvis—Assistant Inspector General for Investigations (Field Divisions).

George Jakabcin—Chief Information Officer.

Danny Verneuille—Assistant Inspector General for Audit (Security and Information Technology Services).

Matthew Weir—Assistant Inspector General for Audit (Compliance and Enforcement Operations).

Department of Veterans Affairs

Phone Number: (202) 461–4720

CIGIE Liaison—Jennifer Geldhof (202) 461–4677

Roy Fredrikson—Deputy Counselor to the Inspector General.

Brent Arronte—Deputy Assistant Inspector General for Audits and Evaluations.

John D. Daigh—Assistant Inspector General for Healthcare Inspections.

Dated: September 12, 2018.

Mark D. Jones,

Executive Director.

[FR Doc. 2018–20243 Filed 9–17–18; 8:45 am]

BILLING CODE 6820–C9–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0096]

Agency Information Collection Activities; Comment Request; High School and Beyond 2020 (HS&B:20) Base-Year Field Test Sampling and Recruitment

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 19, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0096. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: High School and Beyond 2020 (HS&B:20) Base-Year Field Test Sampling and Recruitment.

OMB Control Number: 1850—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 4,836.

Total Estimated Number of Annual Burden Hours: 2,721.

Abstract: The High School and Beyond 2020 study (HS&B:20) will be the sixth in a series of longitudinal studies at the high school level conducted by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education. HS&B:20 will follow a nationally-representative sample of ninth grade students from the start of high school in the fall of 2020 to the spring of 2024 when most will be in twelfth grade. The study sample will be freshened in 2024 to create a nationally representative sample of twelfth-graders. A high school transcript collection and additional follow-up data collections beyond high school are also planned. The NCES secondary longitudinal studies examine issues such as students' readiness for high school; the risk factors associated with dropping out of high school; high school completion; the transition into postsecondary education and access/choice of institution; the shift from school to work; and the pipeline into science, technology, engineering, and mathematics (STEM). They inform education policy by tracking long-term trends and elucidating relationships among student, family, and school characteristics and experiences. HS&B:20 will follow the Middle Grades Longitudinal Study of 2017/18 (MGLS:2017) which followed the Early Childhood Longitudinal Study, Kindergarten Cohort of 2011 (ECLS–K:2011), thereby allowing for the study of all transitions from elementary school through high school and into higher education and/or the workforce. HS&B:20 will include surveys of students, parents, students' math teachers, counselors, and administrators. Students will also receive assessments in mathematics and reading, and be given a 2-minute vision test and a 10-minute hearing test. This request is to conduct, beginning in January 2019, state, school district, school, and parent recruitment activities, including collection of student rosters and selection of the base-year field test sample in preparation for the HS&B:20 base-year field test, scheduled to take place in the fall of 2019. Approval for the base-year field test data collection and base-year full-scale sampling and recruitment activities will be requested in a separate submission in early 2019.

Dated: September 13, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–20216 Filed 9–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0073]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Perkins/NDSL Loan Assignment Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 18, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0073. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Perkins/NDSL Loan Assignment Form.

OMB Control Number: 1845–0048.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 37,943.

Total Estimated Number of Annual Burden Hours: 18,972.

Abstract: Institutions participating in the Federal Perkins Loan program use the assignment form to assign loans to the Department for collection without recompense, transferring the authority to collect on the loan. This request is for continued approval off the paper based assignment form and the electronic process. The electronic process will allow for batch processing as well as individual processing. The same information is being requested in both processing methods.

Dated: September 13, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–20218 Filed 9–17–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Coal Council

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of open meetings.

SUMMARY: This notice announces a virtual meeting of the National Coal Council (NCC) via WebEx. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, October 1, 2018 11:30 a.m.–1 p.m. (EST)

ADDRESSES: This will be virtual meeting conducted through WebEx. If you wish to join the meeting you must register by close of business (5:00 p.m. EST) on Wednesday, September 26th by using the form available at the following URL: *http://www.nationalcoalcouncil.org/page-NCC-Events.html.* The email address you provide in the on-line registration form will be used to forward instructions on how to join the meeting using WebEx. WebEx requires a computer, web browser and an installed application (free). Instructions for joining the webcast will be sent to you two days in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Joseph Giove, U.S. Department of Energy, E–136/Germantown Building, 19901 Germantown Road, Germantown, MD 20874–1290; Telephone 301–903–4130.

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The National Coal Council (the Council) will hold a virtual meeting via webcast at 11:30 a.m.–1:00 p.m. (EST) on October 1, 2018, for the sole purpose of reviewing and voting on the following two reports: ''Advancing U.S. Coal Exports: An Assessment of Opportunities to Enhance Exports of U.S. Coal'' and ''Power Reset: Optimizing the Existing Coal Fleet to Ensure a Reliable and Resilient Grid.'' The Council membership will be asked to accept these reports and forward them to the U.S. Secretary of Energy. The draft reports are available on the National Coal Council website at the following URL: *http://www.nationalcoalcouncil.org/page-NCC-Studies.html.*

Tentative Agenda

- Call to order by Joseph Giove, NCC Deputy Designated Federal Officer, Director Coal Business Operations, Office Fossil Energy, U.S. Department of Energy.
- NCC Report Presentation on ''Advancing U.S. Coal Exports: An Assessment of Opportunities to Enhance Exports of U.S. Coal'' by report co-chairs Justin Burk, Commercial Director, Peabody and David Lawson, Vice President Coal, Norfolk Southern Corporation.
- NCC Report Presentation on ''Power Reset: Optimizing the Existing Coal Fleet to Ensure a Reliable & Resilient Power Grid'' by Janet Gellici, CEO, National Coal Council Inc.
- Public Comment Period & Closing Remarks.
- Adjourn.

All attendees are requested to register in advance for the meeting at: *http://www.nationalcoalcouncil.org/page-NCC-Events.html.*

Exceptional Circumstances: This notice is being published less than 15 days in advance of the meeting on October 1, 2018, due to exceptional circumstances. The previous National Coal Council FACA meeting was announced in the **Federal Register** to take place on September 13, 2018, in Norfolk, VA. That meeting was postponed as a result of the State of Emergency issued by the Virginia Governor due to Hurricane Florence. The reports that are to be reviewed at this rescheduled meeting on October 1, 2018, have been posted to the NCC website for public review since September 4, 2018.

Public Participation: The meeting is open to the public. If you would like to file a written statement to be read during the virtual webcast, you may do so within five calendar days of the event. Please email your written statement to Joseph Giove at *joseph.giove@hq.doe.gov* by 5:00 p.m. (EST) on Wednesday, September 26th. If you would like to make an oral statement during the call regarding the reports being reviewed, you must both register to attend the webcast and also contact Joseph Giove (301–903–4130 or *joseph.giove@hq.doe.gov*) to state your desire to speak. You must make your request for an oral statement by 5:00 p.m. (EST) on Wednesday, September 26th. Reasonable provision will be made to include oral statements at the conclusion of the meeting. However, those who fail to register in advance may not be accommodated. Oral statements are limited to 5-minutes per organization and per person.

Minutes: A recording of the call will be posted on the FACA Database website: *https://facadatabase.gov/committee/historymeetings.aspx?cid=408&fy=2017.*

Signed in Washington, DC, on September 13, 2018.

Latanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–20276 Filed 9–17–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, October 10, 2018 6:00 p.m.

ADDRESSES: Department of Energy Information Center, Office of Science and Technical Information, 1 *Science.gov* Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; Email: *Melyssa.Noe@orem.doe.gov.* Or visit the website at: *https://energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Public Comment Period
- Presentation: Overview of OREM Program Outreach Efforts
- Motions/Approval of September 12, 2018 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on September 12, 2018.

Latanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–20234 Filed 9–17–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection: Security

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Notice of information collection; request for comments.

SUMMARY: The Department of Energy (DOE), Bonneville Power Administration (BPA), invites public comment on a collection of information that BPA is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this proposed information collection must be received on or before November 19, 2018.

ADDRESSES: Written comments may be sent to Bonneville Power Administration, Attn: Laura McCarthy, Privacy Program, CGC–7, P.O. Box 3621, Portland, OR 97208–3621, or by fax Attn: Laura McCarthy, Privacy Program, CGC–7, at (503) 230–4619, or by email at *ljmccarthy@bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Attn: Laura McCarthy, Privacy Program, CGC–7, P.O. Box 3621, Portland, OR 97208–3621, or by fax Attn: Laura McCarthy, Privacy Program, CGC–7 at (503) 230–4619, or by email at *ljmccarthy@bpa.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed

collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* New; (2) *Information Collection Request Title:* Security; (3) *Type of Request:* Existing collections without OMB Control Number; (4) *Purpose:* This information collection is associated with BPA's management and oversight of personnel security and physical security of its facilities. Non-employees, contractors, and the general public complete the following forms: BPA F 5632.01, Security Incident Report; BPA F 5632.08, Unclassified Visits and Assignments—Foreign Nationals Registration (Short Form); BPA F 5632.09, Personal Identity Verification (PIV) Request: Information Sheet for Sponsorship of DOE Security Badge or LSSO; BPA F 5632.11, BPA Visitor(s) Access Request; BPA F 5632.12, Evidence/Property Custody Document; BPA F 5632.18, Crime Witness Telephone Report; BPA F 5632.27, Badge Replacement Form; BPA F 5632.30, Pin Code Request; and BPA F 5632.32, Card Key Access Request. (5) *Estimated Number of Respondents:* 9,642; (6) *Annual Estimated Number of Respondents:* 9,642; (7) *Annual Estimated Number of Burden Hours:* 1,440; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* 0.

Statutory Authority: The Bonneville Project Act, codified at 16 U.S.C. 832; and the following additional authorities:

BPA F 5632.01, Security Incident Report: FERC Order No. 706, sec. 343, pg. 98.

BPA F 5632.08, Unclassified Visits and Assignments—Foreign Nationals Registration (Short Form): E.O. 12333 (December 4, 1981); E.O. 13284 (January 23, 2003); E.O. 13470, (July 30, 2008); FERC Order No. 706 sec. 343, pg. 98.

BPA F 5632.09, Personal Identity Verification (PIV) Request: Information Sheet for Sponsorship of DOE Security Badge or LSSO: E.O. 13467 (April 27, 1953).

E.O. 13488 (January 16, 2009); E.O. 13764, (January 17, 2017); Federal Information Processing Standard Publication 201–2 (FIPS 201–2) and Homeland Security Presidential Directive 12 (HSPD 12).

BPA F 5632.11, BPA Visitor(s) Access Request: 42 U.S.C. 2165; FERC Order No. 706 sec. 343, pg. 98.

BPA F 5632.12, Evidence/Property Custody Document: 42 U.S.C. 2165; FERC Order No. 706 sec. 343, pg. 98.

BPA F 5632.18, Crime Witness Telephone Report: FERC Order No. 706, sec. 343, pg. 98.

BPA F 5632.27, Badge Replacement Form: Federal Information Processing Standard Publication 201–2 (FIPS 201–2) and Homeland Security Presidential Directive 12 (HSPD 12).

BPA F 5632.30, Pin Code Request: Federal Information Processing Standard Publication 201–2 (FIPS 201–2) and Homeland Security Presidential Directive 12 (HSPD 12).

BPA F 5632.32, Card Key Access Request: 42 U.S.C 2165; FERC Order No. 706 sec. 343, pg. 98.

Signed in Portland, Oregon, on September 11, 2018.

Rachel Lynn Hull,

Acting Manager, Information Governance.

[FR Doc. 2018–20242 Filed 9–17–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–1166–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20180911 Miscellaneous Filing to be effective 11/1/2018.

Filed Date: 9/11/18.

Accession Number: 20180911–5038.

Comments Due: 5 p.m. ET 9/24/18.

Docket Numbers: RP18–1167–000.

Applicants: Equitrans, L.P.

Description: eTariff filing per 1430: Order No. 849—Request for Extension of Time to be effective N/A.

Filed Date: 9/11/18.

Accession Number: 20180911–5140.

Comments Due: 5 p.m. ET 9/24/18.

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: September 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–20202 Filed 9–17–18; 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: EC18–155–000.

Applicants: Ameren Transmission Company of Illinois.

Description: Application for Authorization under Section 203 of the Federal Power Act, et al. of Ameren Transmission Company of Illinois.

Filed Date: 9/11/18.

Accession Number: 20180911–5211.

Comments Due: 5 p.m. ET 10/2/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–124–000.

Applicants: Birdsboro Power LLC.

Description: Self-Certification of EWG Status of Birdsboro Power LLC.

Filed Date: 9/12/18.

Accession Number: 20180912–5058.

Comments Due: 5 p.m. ET 10/3/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2303–001.

Applicants: Adams Wind Farm, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of Adams Wind Farm, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5078.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2305–001.

Applicants: Bobilli BSS, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of

Bobilli BSS, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5079.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2306–001.

Applicants: Garwind, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of Garwind, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5119.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2308–001.

Applicants: K&K Wind Enterprises, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of K&K Wind Enterprises, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5120.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2309–001.

Applicants: Rose Creek Wind, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of Rose Creek Wind, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5129.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2310–001.

Applicants: Rose Wind Holdings, LLC.

Description: Tariff Amendment: Amendment to MBR Tariff Filing of Rose Wind Holdings, LLC to be effective 10/24/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5132.

Comments Due: 5 p.m. ET 10/3/18.

Docket Numbers: ER18–2413–000.

Applicants: MidAmerican Central California Transco, LLC.

Description: § 205(d) Rate Filing: Amendment to TO Tariff to be effective 9/30/2018.

Filed Date: 9/11/18.

Accession Number: 20180911–5186.

Comments Due: 5 p.m. ET 10/2/18.

Docket Numbers: ER18–2414–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA (UIUC) Rev 9 to be effective 8/15/2018.

Filed Date: 9/12/18.

Accession Number: 20180912–5115.

Comments Due: 5 p.m. ET 10/3/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–56–000.

Applicants: GridLiance High Plains LLC.

Description: Supplement to August 16, 2018 Application for Authorization under Section 204 of the Federal Power Act of GridLiance High Plains LLC.

Filed Date: 9/7/18.

Accession Number: 20180907–5162.

Comments Due: 5 p.m. ET 9/17/18.

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: September 12, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–20197 Filed 9–17–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9982–87]

Access to Confidential Business Information by General Dynamics Information Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, General Dynamics Information Technology of Fairfax, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than September 25, 2018.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the agency taking?

Under EPA contract number HHSN316201200013W, order number EP–G16H–01256, contractor General Dynamics Information Technology of 3211 Jermantown Rd., Fairfax, VA will assist the Office of Research and Development (ORD) and the Office of Pollution Prevention and Toxics (OPPT) in support of Toxics Release Inventory updates; risk assessments for both new and existing industrial chemicals; identifying chemicals of interest in Screening Information Data Set (SIDSs); and support of assessment/prioritization efforts for existing chemicals under the Lautenberg Act and the Chemical Assessment and Management Plan (CHAMP).

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number HHSN316201200013W, order number EP–G16H–01256, General Dynamics Information Technology will require

access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. General Dynamics Information Technology personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide General Dynamics Information Technology access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ORD's site located in Duluth, MN, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until January 31, 2023. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

General Dynamics Information Technology personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: August 30, 2018.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–20286 Filed 9–17–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0678]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0678.

Title: Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage by, Commercial Earth Stations and Space Stations.

Form Nos.: FCC Form 312; Schedule A; Schedule B; Schedule S; FCC Form 312–EZ; FCC Form 312–R.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; not-for-profit entities.

Number of Respondents: 7,170 respondents; 7,219 responses.

Estimated Time per Response: 0.5–80 hours per response.

Frequency of Response: On occasion, one time, and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 42,014 hours.

Annual Cost Burden: $12,411,120.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. Certain information collected regarding international coordination of satellite systems is not routinely available for public inspection pursuant to 5 U.S.C. 552(b) and 47 CFR 0.457(d)(vii).

Needs and Uses: The Federal Communications Commission requests that the Office of Management and Budget (OMB) approve a revision of the information collection titled ''Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage By, Commercial Earth Stations and Space Stations'' under OMB Control No. 3060–0678, as a result of a recent rulemaking discussed below.

On July 13, 2018, the Federal Communications Commission (''Commission'') released an Order titled, ''In the Matter of Expanding Flexible Use of the 3.7 to 4.2 GHz Band; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz; Petition for Rulemaking to Amend and Modernize Parts 25 and 101 of the Commission's Rules to Authorize and Facilitate the Deployment of Licensed Point-to-Multipoint Fixed Wireless Broadband Service in the 3.7–4.2 GHz Band; Fixed Wireless Communications Coalition, Inc., Request for Modified Coordination Procedures in Band Shared Between the Fixed Service and the Fixed Satellite Service,'' GN Docket No. 18–122, GN Docket No. 17–183, RM–11791, RM–11778 (FCC 18–91). The Order has been published in the **Federal Register**. 83 FR 42043 (Aug. 20, 2018).

In this proceeding, the Commission seeks to identify potential opportunities for additional terrestrial use for wireless broadband services of 500 megahertz of mid-band spectrum between 3.7–4.2 GHz. In response to concerns that the Commission's information regarding current use of the band is inaccurate and/or incomplete, the Commission adopted an Order requesting additional information from operators in the fixed-satellite service (FSS). Specifically, for FSS operators in the 3.7–4.2 GHz band, the Order (1) requests additional information on the operations of temporary-fixed earth station licensees, and (2) requests additional information on the operations of space stations. This information collection will provide the Commission and the public with additional information about existing FSS operators that will be used to consider potential new terrestrial

services in the 3.7–4.2 GHz band while protecting the interests of those FSS operators. The Order also requires certain earth station operators to file certifications that information on file with the Commission remains accurate.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–20240 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0188, 3060–0688]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0188.

Title: Call Sign Reservation and Authorization System, FCC Form 380.

Form Number: FCC Form 380.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions; and State, local, or tribal government.

Number of Respondents and Responses: 1,600 respondents; 1,600 responses.

Estimated Hours per Response: 0.166–0.25 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 333 hours.

Total Annual Cost: $162,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 73.3550 provide that all requests for new or modified call signs be made via the on-line call sign reservation and authorization. The Commission uses an on-line system, FCC Form 380, for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Access to the call sign reservation and authorization system is made by broadcast licensees and permittees, or by persons acting on their behalf, via the internet's World Wide Web. This on-line, electronic call sign system enables users to determine the availability and licensing status of call signs; to request an initial, or change an existing, call sign; and to determine and submit more easily the appropriate fee, if any. Because all elements necessary to make a valid call sign reservation are encompassed within the on-line system, this system prevents users from filing defective or incomplete call sign requests. The electronic system also provides greater certitude, as a selected call sign is effectively reserved as soon as the user has submitted its call sign request. This electronic call sign reservation and authorization system has significantly improved service to all radio and television broadcast station licensees and permittees.

OMB Control Number: 3060–0688.

Title: Abbreviated Cost-of-Service Filing for Cable Network Upgrades, FCC Form 1235.

Form Number: FCC Form 1235.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; State, local or tribal governments.

Number of Respondents and Responses: 5 respondents; 5 responses.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Estimated Hours per Response: 10–20 hours.

Total Annual Burden: 150 hours.

Total Annual Costs: None.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Assessment: No impact(s).

Needs and Uses: FCC Form 1235 is an abbreviated cost of service filing for significant network upgrades that allows cable operators to justify rate increases related to capital expenditures used to improve rate-regulated cable services. FCC Form 1235 is filed following the end of the month in which upgraded cable services become available and are providing benefits to subscribers. In addition, FCC Form 1235 can be filed for pre-approval any time prior to the upgrade services becoming available to subscribers using projected upgrade costs. If the pre-approval option is exercised, the operator must file the form again following the end of the month in which upgraded cable services become available and are providing benefits to customers of regulated services, using actual costs where applicable.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2018–20251 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1031]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1031.

Title: Commission's Initiative to Implement Enhanced 911 (E911) Emergency Services.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local and Tribal government.

Number of Respondents and Responses: 22 respondents; 23 responses.

Estimated Time per Response: 2–20 hours.

Frequency of Response: On occasion, one-time reporting requirement, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154, 160, 201, 251–254, 303, and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 70 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: Respondents are not required to submit proprietary trade secrets or other confidential information. However, carriers that believe the only way to satisfy the requirements for information is to submit what it considers to be proprietary trade secrets or other confidential information, carriers are free to request that materials or information submitted to the Commission be withheld from public inspection and from the E911 website (see Section 0.459 of the Commission's rules).

Needs and Uses: The Commission is seeking an extension of this information collection from Office of Management and Budget (OMB) in order to obtain the full three-year approval. The information collection requirements contained in this collection guarantee continued cooperation between wireless carriers and Public Safety Answering Points (PSAPs) in complying with the Commission's E911 requirements.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–20241 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0668]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0668.

Title: Section 76.936, Written Decisions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; State or Local, or Tribal government.

Number of Respondents and Responses: 150 respondents; 150 responses.

Estimated Hours per Response: 1 hour.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement.

Total Annual Burden: 150 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contain in 47 CFR 76.936 require that a franchising authority must issue a written decision in a rate-making proceeding whenever it disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase whole or in part over the objection of interested parties. Franchising authorities are required to issue a written decision in rate-making proceedings pursuant to Section 76.936 so that cable operators and the public are made aware of the proceeding.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2018–20252 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0980]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0980.

Title: Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues, 47 CFR Section 76.66.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 10,300 respondents; 11,978 responses.

Estimated Time per Response: 1 hour to 5 hours.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement; Once every three years reporting requirement; Recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 325, 338, 339 and 340.

Total Annual Burden: 12,186 hours.

Total Annual Cost: $24,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The following information collection requirements are approved under this collection: 47 CFR 76.66(d)(6) addresses satellite carriage after a market modification is granted by the Commission. The rule states that television broadcast stations that become eligible for mandatory carriage with respect to a satellite carrier (pursuant to § 76.66) due to a change in the market definition (by operation of a market modification pursuant to § 76.59) may, within 30 days of the effective date of the new definition, elect retransmission consent or mandatory carriage with respect to such carrier. A satellite carrier shall commence carriage within 90 days of receiving the carriage election from the television broadcast station. The election must be made in accordance with the requirements of 47 CFR 76.66(d)(1).

47 CFR 76.66(b)(1) states each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of title 47, United States Code, and other paragraphs in this section. Satellite carriers are required to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

47 CFR 76.66(b)(2) requires a satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall, no later than December 8, 2005, carry upon request the signal originating as an analog signal of each television broadcast station that is located in a local market in Alaska or Hawaii; and shall, no later than June 8, 2007, carry upon request the signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or

Hawaii. Such satellite carrier is not required to carry the signal originating as analog after commencing carriage of digital signals on June 8, 2007. Carriage of signals originating as digital signals of each television broadcast station that is located in a local market in Alaska or Hawaii shall include the entire free over-the-air signal, including multicast and high definition digital signals.

47 CFR 76.66(c)(3)–(4) requires that a commercial television station notify a satellite carrier in writing whether it elects to be carried pursuant to retransmission consent or mandatory consent in accordance with the established election cycle.

47 CFR 76.66(c)(5) requires that a noncommercial television station must request carriage by notifying a satellite carrier in writing in accordance with the established election cycle.

47 CFR 76.66(c)(6) requires a commercial television broadcast station located in a local market in a noncontiguous state to make its retransmission consent-mandatory carriage election by October 1, 2005, for carriage of its signals that originate as analog signals for carriage commencing on December 8, 2005 and ending on December 31, 2008, and by April 1, 2007 for its signals that originate as digital signals for carriage commencing on June 8, 2007 and ending on December 31, 2008. For analog and digital signal carriage cycles commencing after December 31, 2008, such stations shall follow the election cycle in 47 CFR 76.66(c)(2) and 47 CFR 76.66(c)(4). A noncommercial television broadcast station located in a local market in Alaska or Hawaii must request carriage by October 1, 2005, for carriage of its signals that originate as an analog signal for carriage commencing on December 8, 2005 and ending on December 31, 2008, and by April 1, 2007 for its signals that originate as digital signals for carriage commencing on June 8, 2007 and ending on December 31, 2008. Moreover, Section 76.66(c) requires a commercial television station located in a local market in a noncontiguous state to provide notification to a satellite carrier whether it elects to be carried pursuant to retransmission consent or mandatory consent.

47 CFR 76.66(d)(1)(ii) states an election request made by a television station must be in writing and sent to the satellite carrier's principal place of business, by certified mail, return receipt requested.

47 CFR 76.66(d)(1)(iii) states a television station's written notification shall include the: (A) Station's call sign; (B) Name of the appropriate station contact person; (C) Station's address for purposes of receiving official correspondence; (D) Station's community of license; (E) Station's DMA assignment; and (F) For commercial television stations, its election of mandatory carriage or retransmission consent.

47 CFR 76.66(d)(1)(iv) Within 30 days of receiving a television station's carriage request, a satellite carrier shall notify in writing: (A) Those local television stations it will not carry, along with the reasons for such a decision; and (B) those local television stations it intends to carry.

47 CFR 76.66(d)(2)(i) states a new satellite carrier or a satellite carrier providing local service in a market for the first time after July 1, 2001, shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage (A) Of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market; (B) Of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b); (C) That such licensee has 30 days from the date of the receipt of such notice to make such election; and (D) That failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

47 CFR 76.66(d)(2)(ii) states satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

47 CFR 76.66(d)(2)(iii) requires a satellite carrier with more than five million subscribers to provide a notice as required by 47 CFR 76.66(d)(2)(i) and 47 CFR 76.66(d)(2)(ii) to each television broadcast station located in a local market in a noncontiguous state, not later than September 1, 2005 with respect to analog signals and a notice not later than April 1, 2007 with respect to digital signals; provided, however, that the notice shall also describe the carriage requirements pursuant to Section 338(a)(4) of Title 47, United States Code, and 47 CFR 76.66(b)(2).

47 CFR 76.66(d)(2)(iv) requires that a satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market.

47 CFR 76.66(d)(2)(v) states within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: Those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry.

47 CFR 76.66(d)(2)(vi) requires satellite carriers to notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

47 CFR 76.66(d)(3)(ii) states a new television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

47 CFR 76.66(d)(3)(iv) states within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station.

47 CFR 76.66(d)(5)(i) states beginning with the election cycle described in § 76.66(c)(2), the retransmission of significantly viewed signals pursuant to § 76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was retransmitting such signals as of the date these notifications were due. (A) In any local market in which a satellite carrier provided local-into-local service on December 8, 2004, at least 60 days prior to any date on which a station must make an election under paragraph (c) of this section, identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle and the communities into which the satellite carrier reserves the right to make such retransmissions; (B) In any local market in which a satellite carrier commences local-into-local service after December 8, 2004, at least 60 days prior to the commencement of service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under

§ 76.66(c) or (d)(2), identify each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle.

47 CFR 76.66(f)(3) states except as provided in 76.66(d)(2), a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter.

47 CFR 76.66(f)(4) states a satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its local receive facility must provide 60 days notice to all local television stations carried in the affected television market.

47 CFR 76.66(h)(5) states a satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station's signal in a particular local market pursuant to this paragraph.

47 CFR 76.66(m)(1) states whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations.

47 CFR 76.66(m)(2) states the satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations.

47 CFR 76.66(m)(3) states a local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission, in accordance with § 76.7 of title 47, Code of Federal Regulations. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

47 CFR 76.66(m)(4) states the satellite carrier against which a complaint is filed is permitted to present data and arguments to establish that there has been no failure to meet its obligations under this section.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2018–20250 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 19, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Intermediate Provider Registry, WC Docket No. 13–39.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 168 respondents; 168 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third-party disclosure; one-time reporting requirement; on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection is contained in sections 1, 4(i), 201(b), 202(a), 217, and 262 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 217, and 262.

Total Annual Burden: 168 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Improving Rural Call Quality and Reliability Act of 2017 (RCC Act), Public Law 115–129, requires the Commission establish a registry for intermediate providers and requires intermediate providers register with the Commission before offering to transmit covered voice communications. The information collected through this information collection will be used to implement Congress's direction to the Commission to establish an intermediate provider registry.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–20270 Filed 9–17–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984.

Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements 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.: 201260–002.

Agreement Name: Ocean Network Express Pte. Ltd. (ONE)/NYK Bulk & Projects Carriers Ltd. Slot Charter Agreement.

Parties: Ocean Network Express Pte. Ltd. and NYK Bulk & Project Carriers Ltd.

Filing Party: Carrol Hand; Ocean Network Express.

Synopsis: The amendment extends the geographic scope of the agreement and allows for space allocation on an as needed/as available basis.

Proposed Effective Date: 10/20/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/13191.

Agreement No.: 201272.

Agreement Name: KYOWA/CNCo Pacific—Asia Slot Charter Agreement.

Parties: Kyowa Shipping Co.,, Ltd. and The China Navigation Co. Pte. Ltd.

Filing Party: Conte Cicala; Clyde & Co. US LLP.

Synopsis: The Agreement authorizes KYOWA to charter space to CNCo on certain vessels KYOWA operates and authorizes CNCo to charter space to KYOWA on certain vessels CNCo operates between and among various foreign ports and Pago Pago, American Samoa.

Proposed Effective Date: 9/12/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/16283.

Dated: September 13, 2018.

Rachel E. Dickon,

Secretary.

[FR Doc. 2018–20219 Filed 9–17–18; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 3, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Sanford O. Ilstrup, Trempealeau, Wisconsin, individually and acting in concert with Richard Davig, Viroqua, Wisconsin, Jeffrey Ilstrup, Onalaska, Wisconsin, Rondi Solverson, Viroqua, Wisconsin, Shane Ilstrup, Trempealeau, Wisconsin, Stephanie Sirek, Rochester, Minnesota, Erik Solverson, Hermosa Beach, California, and Ingrid Solverson-Keneipp, Viroqua, Wisconsin;* to join the Ilstrup Family Control Group and acquire voting shares of Firsnabanco, Inc. and thereby indirectly acquire shares of Citizens First Bank, both of Viroqua, Wisconsin.

Board of Governors of the Federal Reserve System, September 12, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–20159 Filed 9–17–18; 8:45 am]

BILLING CODE 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 October 15, 2018.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *Rhinebeck Bancorp MHC and Rhinebeck Bancorp, Inc.;* to become bank holding companies by acquiring voting shares of Rhinebeck Bank, all of Poughkeepsie, New York.

Rhinebeck Bank proposes to reorganize into a two-tier mutual holding company structure. Rhinebeck MHC will own 55 percent of Rhinebeck Bancorp, which will own 100 percent of the bank.

Board of Governors of the Federal Reserve System, September 13, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–20253 Filed 9–17–18; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 182 3095]

Sandpiper of California and PiperGear USA; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 12, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Sandpiper of California

and PiperGear USA'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftcsandpiperconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Sandpiper of California and PiperGear USA; File No. 1823095'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Julia Solomon Ensor (202–326–2377) or Crystal Ostrum (202–326–3405), Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 12, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 12, 2018. Write ''Sandpiper of California and PiperGear USA; File No. 1823095'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftcsandpiperconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''Sandpiper of California and PiperGear USA; File No. 1823095'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *http://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 12, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Sandpiper of California, Inc. and PiperGear USA, Inc. (''Respondents'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Respondents' marketing, sale, and distribution of bags and wallets with claims that the products are made in the United States.

According to the FTC's complaint, Respondents represented that all of their products are all or virtually all made in the United States. In fact, more than 95% of Respondent Sandpiper's products are imported as finished goods, and approximately 80% of Respondent PiperGear's products are either imported as finished goods or contain significant imported components. Based on the foregoing, the complaint alleges that Respondents engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent Respondents from engaging in similar acts and practices in the future. Consistent with the FTC's Enforcement

Policy Statement on U.S. Origin Claims, Part I prohibits Respondents from making U.S.-origin claims for their products unless either: (1) The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits Respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and Respondents have a reasonable basis substantiating the representation.

Parts III through VI are reporting and compliance provisions. Part III requires Respondents to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part IV requires each Respondent to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Part V requires Respondents to maintain certain records, including records necessary to demonstrate compliance with the order. Part VI requires Respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent's personnel.

Finally, Part VII is a ''sunset'' provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission, Commissioner Chopra dissenting.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Rebecca Kelly Slaughter, in Which Chairman Joe Simons Joins

When companies falsely claim that their products are made in the U.S.A., they take advantage of consumers who choose to spend their dollars supporting domestic products *and* the companies who expend resources in order to make the claim proudly and truthfully. Today, the Commission is announcing three enforcement actions [1] targeting companies and an individual who we allege falsely claimed their products were made in the U.S.A. in violation of Section 5 of the FTC Act. In *Patriot Puck,* respondent George Statler III and his companies marketed hockey pucks imported from China as ''Made in America'' and ''The only American Made Hockey Puck!'' The *Nectar Sleep* respondents included the statement ''Designed and Assembled in the USA'' in product descriptions for mattresses wholly imported from China. And in *Sandpiper/PiperGear,* respondents marketed imported backpacks and wallets on websites claiming ''Featuring American Made Products'' and shipped imported wallets with cards labeled ''American Made.'' The Commission's complaints allege that these claims were plainly false and the respondents have all agreed to strong administrative consent orders.

Each of the administrative consent orders prohibits the respondents from making these types of claims in the future [2] and requires the respondents to engage in recordkeeping and reporting that will assist the FTC in monitoring compliance.[3] Any violation of these orders can result in a civil penalty of over $40,000 *per violation*.[4] There is evidence that these potential penalties have served as powerful deterrents: To date the FTC has only had cause to initiate one contempt proceeding [5] against the more than twenty prior respondents in cases involving U.S.-origin claims.

In this area, administrative consent orders securing permanent injunctive relief buttressed by the threat of significant civil penalties have been largely successful in keeping former violators on the straight and narrow and have no doubt served as a warning to others that false claims will be identified and pursued. Therefore, we are voting in support of the relief set forth in the final and proposed administrative orders announced today.

We write separately to highlight the possibility that the FTC can further maximize its enforcement reach, in all areas, through strategic use of additional remedies. For example, in the U.S.-origin claim context, there may be cases in which consumers paid a clear premium for a product marketed as ''Made in the U.S.A.'' or made their purchasing decision in part based on perceived quality, safety, health or environmental benefits tied to a U.S.-origin claim.[6] In such instances,

[1] To date, the Commission has initiated 25 enforcement actions arising from misleading U.S.-origin claims, targeting entities that engage in intentional deception or refuse to come into prompt compliance. FTC staff also works extensively with companies to achieve compliance in this area, issuing more than 130 closing letters addressing potential U.S.-origin claims. These letters highlight that where companies make errors or potentially deceptive claims to consumers, Commission staff works with them to quickly come into compliance. In addition to enforcement actions and compliance counseling, the Commission's program to protect consumers from deceptive U.S.-origin claims involves significant business education efforts. In 1997, the Commission issued an Enforcement Policy Statement on U.S. Origin Claims that explains the types of U.S.-origin claims that can be made and the substantiation needed to support them. Commission staff has also issued comprehensive guidance, press releases and blogs in this area to promote compliance.

[2] Specifically, the orders prohibit respondents from making deceptive unqualified U.S.-origin claims about their products and lay out the type of substantiation required to make truthful claims. The orders also govern the manner and type of qualification needed to make a lawful qualified claim regarding U.S.-origin. The orders further prohibit respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and respondents have a reasonable basis substantiating the representation.

[3] Each of the orders requires the respondents to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Respondents are also required to maintain certain records, including records necessary to demonstrate compliance with the order. The orders also require respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondents' personnel. The orders remain in effect for 20 years.

[4] Outside of specific rules, the FTC does not have authority to seek civil penalties for violations of Section 5 of the FTC Act. The FTC does have authority to seek civil penalties for any violations of its administrative orders. *See* 15 U.S.C. 45(l) and 16 CFR 1.98(d) (2018).

[5] *See https://www.ftc.gov/news-events/press-releases/2006/06/ftc-alleges-stanley-made-false-made-usa-claims-about-its-tools* (announcing settlement with Stanley Works that imposed a $205,000 civil penalty for violating prior order regarding U.S.-origin claims).

[6] Of the three cases the FTC is announcing today, we note that consideration of additional remedies such as notice could have been of particular value in the *Nectar Sleep* matter, which involved U.S.-origin claims about mattresses. The fact that purchasers of Nectar Sleep mattresses can seek a refund for any reason for 365 days after their original purchase, *https://www.nectarsleep.com/p/returns/,* and that purchasers received mattresses

additional remedies such as monetary relief or notice to consumers may be warranted. Requiring law violators to provide notice to consumers identifying the deceptive claim can help mitigate individual consumer injury—an informed consumer would have the option to seek a refund, or, at the very least, stop using the product.

The Commission has already begun a broad review of whether we are using every available remedy as effectively as possible to fairly and efficiently pursue vigorous enforcement of our consumer protection and competition laws. If we find that there are new or infrequently applied remedies that we should be seeking more often, the Commission will act accordingly—and, where appropriate, signal to the public how we intend to approach enforcement. In our view, a thoughtful review and forward-looking plan is a more effective and efficient use of Commission resources than re-opening and re-litigating the cases before us today.[7]

Statement of Commissioner Rohit Chopra

Question Presented

Are no-money, no-fault settlements adequate to remedy serious violations of the FTC's ''Made in USA'' standard?

Summary

- Sellers gain a competitive advantage when they falsely market a product as Made in USA, especially when this claim is closely tied to the development of the product's brand.
- Third-party analysis suggests that Americans are often willing to pay significantly more for American-made goods compared to those made in China. Several of the matters under consideration by the Commission involve Made-in-USA fraud relating to products made in China.
- The Commission should modify its approach to resolving serious Made-in-USA fraud by seeking more tailored remedies that could include restitution, disgorgement, notice, and admissions of wrongdoing, based on the facts and circumstances of each matter.

with accurate country-of-origin labels, contributed to our decision to vote in favor of the final *Nectar Sleep* order.

[7] It is worth noting that all of the cases announced today began well before the current complement of Commissioners were instated, and therefore before staff could reasonably have been expected to anticipate our particular priorities and views on enforcement. To renegotiate these settlements at this point, after litigation strategy was developed and executed, would require substantial investment of staff time and effort and diversion of resources from other important cases. A forward-looking set of remedy priorities will help staff develop litigation strategy in an efficient way.

Analysis and Discussion

The Power of Branding and Made in USA

While brand identity has historically been a major focus in markets for luxury goods, today it plays a key role in all segments of our economy. As advanced manufacturing and global supply chains challenge firms to find new ways to lower operating costs, consumer goods industries (including everything from apparel to packaged goods) have focused intensely on building and cultivating their brands as a way to drive up margins through price and volume enhancements.

Branding is distinct from marketing and advertising. A successful brand is one that creates a clear identity that goes beyond specific product attributes. A brand identity connects with a consumer's values, aspirations, and sense of self.

A Made-in-USA claim can serve as a key element of a product's brand that communicates quality, durability, authenticity, and safety, among other attributes. Not only can it be a signal about specific product attributes but it can also contribute to the development of a brand identity that connotes a set of values, such as fair labor practices, to consumers.

Made-in-USA branding can also be used to fraudulently conceal countries of origin that may cause concerns for consumers. For example, in recent years, regulators have investigated serious health and safety problems with pet food [1] and drywall [2] imported from China, and the OECD estimates that China is the source of the vast majority of counterfeit goods imported to the U.S.[3] Against this backdrop, slapping a ''Made-in-USA'' label on a good made abroad can be its own form of counterfeiting, replacing an unpopular attribute with one connoting quality, safety, and authenticity.

In many cases, Americans are actually willing to pay a premium for goods that are made in our country, especially compared to those made in China. A 2012 survey by the Boston Consulting Group shows that more than 80% of Americans express a willingness to pay more for made-in-USA products,[4] which is consistent with other surveys.[5]

Importantly, however, price premium does not always accurately capture the harm caused by Made-in-USA fraud. Especially in markets for commodity goods where consumers may be particularly price-sensitive, firms may make false claims to distinguish their brand or conceal unpopular countries of origin.

Whatever its purpose, cheating distorts markets in fundamental ways. It rips off Americans who prefer buying domestic goods. It also punishes firms that may bear higher costs to produce goods here, yet must compete on price or branding with firms that cheat. Finally, widespread deception sows doubt [6] about the veracity of Made-in-USA claims, which may reduce the claim's value and discourage domestic manufacturing.

Backpacks, Hockey Pucks, and Mattresses

Today, the Commission is voting on three cases involving Made-in-USA fraud.[7] The conduct of each of these companies was brazen and deceitful. In my view, each respondent firm harmed both consumers and honest competitors.

In the Sandpiper and Patriot Puck matters, the evidence suggests that the Made-in-USA claim was a critical component of the companies' brand identities. In the Nectar Sleep matter, the false Made-in-USA claim may have

[1] Food & Drug Admin., Melanine Pet Food Recall of 2007 (May 2007), *https://www.fda.gov/animalveterinary/safetyhealth/recallswithdrawals/ucm129575.htm.*

[2] Fed. Trade Comm'n, Tests for Defective Drywall (Dec. 2009), *https://www.consumer.ftc.gov/articles/0124-tests-defective-drywall.*

[3] *Global trade in fake goods worth nearly half a trillion dollars a year,* Org. for Econ. Co-Operation and Dev. (Apr. 18, 2016), *http://www.oecd.org/industry/global-trade-in-fake-goods-worth-nearly-half-a-trillion-dollars-a-year.htm.*

[4] *Made in America, Again: Understanding the value of 'Made in the USA',* The Boston Consulting Group (Nov. 2012) [Hereinafter *Made in America, Again*].

[5] *See, e.g. Made in America: Most Americans love the idea of buying a U.S.-made product instead of an import. But sometimes it's hard to tell what's real and what's not,* Consumer Reports (May 21, 2015), *https://www.consumerreports.org/cro/magazine/2015/05/made-in-america/index.htm* [hereinafter *Made in America*] (reporting on a national survey finding that 60%+ of Americans would pay a 10% premium for Made-in-USA goods); *Price of patriotism: How much extra are you willing to pay for a product that's made in America?,* Reuters (July 18, 2017), *http://fingfx.thomsonreuters.com/gfx/rngs/USA-BUYAMERICAN-POLL/01005017035/index.html* (reporting on a national survey finding that 60%+ of Americans would pay a premium of 5% or more). Of course, surveys reveal only Americans' *stated* willingness to pay a premium, not their actual buying behavior. But assuming Americans will pay *no* premium runs contrary to the available evidence, and firms' aggressive Made-in-USA branding shows they clearly see it as advantageous.

[6] *See Made in America,* supra note 5 (reporting on a national survey finding that 23% of Americans lack trust in ''Made in America'' labels).

[7] Claiming falsely that a product is Made in USA violates Section 5 of the FTC Act. Although the FTC brought a Made-in-USA case as early as 1940, Congress amended the FTC Act in 1994 to state explicitly that Made-in-USA labeling must be consistent with FTC decisions and orders. *See* 15 U.S.C. 45a.

been asserted to convey health or safety benefits.

Sandpiper/PiperGear USA: Sandpiper/PiperGear USA (''Sandpiper'') built its brand of military-themed backpacks and gear on patriotism. As detailed in the FTC's complaint, the company boasted in its promotional materials about its ''US manufacturing,'' inserted ''American Made'' labels into products, and included the hashtag ''#madeinusa'' alongside social media posts.[8] The company sold thousands of backpacks on American military bases overseas.

In reality, Sandpiper imported the vast majority [9] of its products from China or Mexico, a fact the firm actively sought to hide through its aggressive Made-in-USA branding.

Patriot Puck: Hockey pucks typically are manufactured to meet certain weight, thickness, and diameter specifications. These are commodity goods. Purchasers largely see competing pucks that boast similar specifications, so brand positioning can be especially salient.

Patriot Puck positioned its brand as the all-American alternative to imported pucks. The company literally wrapped its pucks in the flag, embossing each one with an image of an American flag. To drive home the point, the firm claimed its pucks were ''Proudly Made in the USA,'' ''MADE IN AMERICA,'' ''100% Made in the USA!,'' and ''100% American Made!'' The firm even claimed it made ''The Only American Made Hockey Puck!'' [10]

In reality, Patriot Puck imported all of its pucks from China.[11]

That Patriot Puck priced its pucks similarly to other firms illustrates why sticker price premium alone is a poor proxy for the harm caused by Made-in-USA fraud, especially in markets for commodity goods. Hockey is closely associated with international competition, and Patriot Puck's claim to offer the ''only'' puck made in America was a clear effort to create a brand identity that would distinguish its pucks from the competition. Moreover, by pricing its pucks similarly to its competitors, Patriot Puck led consumers to believe they were getting a great deal on American-made hockey pucks, when in fact they were overpaying for pucks made in China.[12]

Nectar Sleep: Nectar Sleep is a direct-to-consumer online mattress firm founded by Silicon Valley entrepreneurs. According to a CNBC profile of the company, Nectar competes with more than 200 firms to capture a slice of the $15 billion mattress market.

Nectar mattresses are made in China, which may be a negative attribute for consumers who have health or safety concerns about Chinese-made mattresses.[13] Perhaps for this reason, the company falsely represented to consumers that its mattresses were assembled in the U.S.

Nectar's conduct had clear consequences. Competitors who actually made mattresses domestically were undercut, and consumers looking for U.S.-made mattresses—possibly for health or safety reasons—got ripped off. Further, Nectar may continue to profit from the lingering misperception that its mattresses are made in the U.S.

Addressing Made-in-USA Fraud Going Forward

Most FTC resolutions of Made-in-USA violations have resulted in voluntary compliance measures [14] or cease-and-desist orders. Indeed, none of the three settlements approved today includes monetary relief, notice to consumers, or any admission of wrongdoing.

Going forward, in cases involving egregious and undisputed Made-in-USA fraud, I believe there should be a strong presumption against simple cease-and-desist orders. Instead, the Commission should consider remedies tailored to the individual circumstances of the fraud, including redress and notice for consumers, disgorgement of ill-gotten gains, opt-in return programs, or admissions of wrongdoing.

Some general principles can inform our approach to tailoring remedies. For firms that built their core brand identity on a lie, full redress or the opportunity for opt-in refunds may be appropriate, given the centrality of the false claim and its widespread dissemination.[15] When refunds are difficult to administer or the firm lacks ability to pay, the Commission should at least seek notification to consumers or corrective advertising [16]—especially in markets where country of origin bears on health or safety. Finally, if firms' misrepresentations are undisputed and clear, the Commission should strongly consider seeking admissions—a form of accountability that is explicitly contemplated by our rules of practice.[17]

Admissions may have particular value in cases involving Made-in-USA fraud. In these cases, clear and undisputed facts may give the agency a strong basis to demand an admission from a firm. And if that firm lacks funds or records for consumer redress or disgorgement, admissions can be a powerful tool to give consumers, competitors, and counterparties tools to remedy harm, even when we cannot.[18] Moreover, because the Commission is generally limited to seeking equitable rather than punitive remedies for first-time offenses, seeking admissions is among the most effective ways we can deter lawbreaking and change the cost-benefit calculus of deception.

[8] Compl. at ¶¶ 6–7.

[9] According to the Complaint, more than 95% of Sandpiper's products are imported as finished goods, while approximately 80% of PiperGear's products are either imported as finished goods or contain significant imported components. *Id.* at ¶ 7.

[10] Compl. at ¶ 9.

[11] The Commission has wisely named George Statler III, who operated the company, in its Complaint.

[12] Surveys show that Americans will pay a premium for U.S.-made sporting goods relative to those made in China, meaning they effectively discount goods made in China. *Made in America, Again* at 1. And Americans may be particularly averse to buying patriotic-themed goods made in China. *See, e.g.,* Matt Brooks, *US Olympic uniforms spark fury in Congress,* Wash. Post (July 13, 2012), *https://www.washingtonpost.com/blogs/2012-heavy-medal-london/post/us-olympic-uniforms-spark-fury-in-congress/2012/07/13/gJQABvJmhW_blog.html?utm_term=.3d96e391f1dd.*

[13] Such concerns may be tied to recent recalls of Chinese-made mattresses and bedding, and may be partially reflected in the premium Americans are willing to pay for U.S.-made furniture over furniture made in China. *See Made in America, Again* at 6. In fact, numerous consumer reviews specifically focus on comparing U.S.-made mattresses.

[14] Of course, when the violation is unintentional or technical in nature, less formal actions can be helpful, especially if the misstatement is quickly corrected. My comments are limited to matters where the violation was egregious.

[15] Particularly for misbranded products, the FTC could likely show that a firm's Made-in-USA misrepresentations were widely disseminated, that they were of the kind usually relied on by reasonable persons, and that consumers purchased the product, thus making gross sales an appropriate starting point for calculating restitution. *See FTC* v. *Kuykendall, 371 F.3d 745, 764 (10th Cir. 2004) (holding, in a contempt action, that after the Commission establishes a presumption of reliance, ''the district court may use the Defendants' gross receipts as a starting point''). Importantly, if there was deception in the sale, defendants generally do not receive credit for the value of the product sold. See FTC v. Figgie Int'l, Inc., 994 F.2d 595, 606–07 (9th Cir. 1993)* (''*The fraud in the selling, not the value of the thing sold, is what entitles consumers*'' *to full redress.).*

[16] Corrective advertising can be important to preventing firms from continuing to profit from deception. As explained by then-Chairman Pitofsky after a corrective advertising order was upheld by the D.C. Circuit, ''It is important for advertisers to know that it is not enough just to discontinue a deceptive ad, and that they can be held responsible for the lingering misimpressions created by deceptive advertising.'' *See* Press Release, Fed. Trade Comm'n, Appeals Court Upholds FTC Ruling; Doan's Must Include Corrective Message in Future Advertising and Labeling (Aug. 21, 2000), *https://www.ftc.gov/news-events/press-releases/2000/08/appeals-court-upholds-ftc-ruling-doans-must-include-corrective.*

[17] *See* 16 CFR 2.32.

[18] For example, a factual admission may have a preclusive effect in a Lanham Act claim by a competitor.

I hope that the Commission will reexamine its approach to tackling Made-in-USA fraud. I believe we should seek more tailored remedies that vindicate the important goals of the program and send the message that Made-in-USA fraud will not be tolerated.

Conclusion

Nectar Sleep, Sandpiper, and Patriot Puck clearly violated the law, allowing them to enrich themselves and harm their customers and competitors. Especially given widespread interest in buying American products, we should do more to protect the authenticity of Made-in-USA claims. I am concerned that no-money, no-fault settlements send an ambiguous message about our commitment to protecting consumers and domestic manufacturers from Made-in-USA fraud.

Going forward, I hope the Commission can better protect against harms to competition and consumers by seeking monetary relief, notice, admissions, and other tailored remedies. Every firm needs to understand that products labeled ''Made in USA'' should be made in the USA, and that fake branding will come with real consequences.

[FR Doc. 2018–20271 Filed 9–17–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED JULY 1, 2018 THROUGH JULY 31, 2018

07/02/2018		
20181318	G	Contura Energy, Inc.; ANR, Inc.; Contura Energy, Inc.
20181442	G	Paddy Power Betfair plc; FanDuel Ltd.; Paddy Power Betfair plc.
20181443	G	Fastball Holdings LLC; Paddy Power Betfair plc; Fastball Holdings LLC.
20181476	G	Spirit AeroSystems Holdings, Inc.; S.R.I.F. NV; Spirit AeroSystems Holdings, Inc.
20181482	G	Sanofi; Translate Bio, Inc.; Sanofi.
20181500	G	Michael Alexander Cannon-Brookes; Zoox, Inc.; Michael Alexander Cannon-Brookes.
20181501	G	JSW Energy Interests LP; FirstEnergy Corp.; JSW Energy Interests LP.
20181508	G	Fortive Corporation; Johnson & Johnson; Fortive Corporation.
07/03/2018		
20181496	G	Arthur J. Gallagher & Co.; Vincent DiBenedetto; Arthur J. Gallagher & Co.
20181517	G	Nidec Corporation; Whirlpool Corporation; Nidec Corporation.
20181533	G	Ergon, Inc.; Blueknight Energy Partners, L.P.; Ergon, Inc.
07/05/2018		
20181485	G	Ashtead Group plc; Blagrave No. 2 Limited; Ashtead Group plc.
07/09/2018		
20181478	G	Webster Capital III, L.P.; Clark H. & Pamela A. Gustafson; Webster Capital III, L.P.
20181479	G	Webster Capital III, L.P.; James D. and Janet A. Clary; Webster Capital III, L.P.
07/10/2018		
20181506	G	CJ CheilJedang Corporation; Ann M. Drake; CJ CheilJedang Corporation.
20181529	G	CMS Energy Corporation; Starwood Energy Infrastructure Fund II Investor, LLC; CMS Energy Corporation.
20181534	G	Bain Capital Fund XII, L.P.; Hercules Achievement Holdings, Inc.; Bain Capital Fund XII, L.P.
20181535	G	Bain Capital Fund XII, L.P.; Hercules VB Holdings, Inc.; Bain Capital Fund XII, L.P.
20181537	G	Ourhome Ltd.; Hanjin Heavy Industries & Construction H; Ourhome Ltd.
20181539	G	Clayton, Dubilier & Rice Fund X, L.P.; Cardinal Health Inc.; Clayton, Dubilier & Rice Fund X, L.P.
20181540	G	IIF US Holding 2 LP; American Midstream Partners, LP; IIF US Holding 2 LP.
20181541	G	Ken Garff Enterprises, LLC; Jefferies Financial Group Inc.; Ken Garff Enterprises, LLC.
20181545	G	Tiger Global Private Investment Partners VIII, L.P.; InVisionapp Inc.; Tiger Global Private Investment Partners VIII, L.P.
20181547	G	Tiger Global Private Investment Partners VII, L.P.; InVisionapp Inc.; Tiger Global Private Investment Partners VII, L.P.
20181550	G	George Feldenkreis; Perry Ellis International, Inc.; George Feldenkreis.
20181553	G	Madison Dearborn Capital Partners VII–A, L.P.; Audax Private Equity Fund IV, L.P.; Madison Dearborn Capital Partners VII–A, L.P.
20181556	G	Blackstone Capital Partners VII L.P.; PSAV Holdings LLC; Blackstone Capital Partners VII L.P.
20181577	G	Telapex, Inc.; Pamlico Capital II, L.P.; Telapex, Inc.

EARLY TERMINATIONS GRANTED JULY 1, 2018 THROUGH JULY 31, 2018—Continued

		07/11/2018
20181585	G	Gebr. Knauf KG; USG Corporation; Gebr. Knauf KG.
		07/12/2018
20181532	G	TA XII–A L.P.; Eric M. Peyrot; TA XII–A L.P.
		07/13/2018
20181561	G	CDH Fund V, L.P.; Sirtex Medical Limited; CDH Fund V, L.P.
20181563	G	ONCAP IV LP; Peak Rock Capital Fund LP; ONCAP IV LP.
20181578	G	West Street Capital Partners VII, L.P.; Genstar Capital Partners VI, L.P.; West Street Capital Partners VII, L.P.
20181579	G	Carlyle Power CPP II Nautilus, LLC; Old Dominion Electric Cooperative; Carlyle Power CPP II Nautilus, LLC.
20181581	G	The Veritas Capital Fund V, L.P.; Cotiviti Holdings, Inc.; The Veritas Capital Fund V, L.P.
20181584	G	The Veritas Capital Fund VI, L.P.; The Veritas Capital Fund V, L.P.; The Veritas Capital Fund VI, L.P.
20181591	G	Alpine Investors VI, LP; Gregory Garvey; Alpine Investors VI, LP.
20181593	G	Warburg Pincus Private Equity X, L.P.; BP Aero Holdings LLC; Warburg Pincus Private Equity X, L.P.
20181597	G	Hellman & Friedman Capital Partners VIII, L.P.; Charles Laurans; Hellman & Friedman Capital Partners VIII, L.P.
20181603	G	Roquette Freres S.A.; Sethness Products Company; Roquette Freres S.A.
		07/16/2018
20181544	G	Amber Holdings, L.P.; Vista Equity Partners Fund V, L.P.; Amber Holdings, L.P.
20181602	G	Lyft, Inc.; Bikeshare Holdings LLC; Lyft, Inc.
20181619	G	Aptiv PLC; Snow Phipps III, L.P.; Aptiv PLC.
		07/17/2018
20181530	G	David A. Duffield; Adaptive Insights, Inc.; David A. Duffield.
20181567	G	Canyon Value Realization Fund, L.P.; Berry Global Group, Inc.; Canyon Value Realization Fund, L.P.
20181569	G	The CVRF Trust; Berry Global Group, Inc.; The CVRF Trust.
20181570	G	The CBEF Master Trust; Berry Global Group, Inc.; The CBEF Master Trust.
		07/18/2018
20181576	G	Madison Dearborn Capital Partners VII–B, L.P.; Navigant Consulting, Inc.; Madison Dearborn Capital Partners VII–B, L.P.
20181598	G	Bain Capital Fund XII, L.P.; VEPF IV AIV III, L.P.; Bain Capital Fund XII, L.P.
20181599	G	Bain Capital Fund XII, L.P.; Vista Equity Partners Fund VI, L.P.; Bain Capital Fund XII, L.P.
20181600	G	Vista Equity Partners Fund VI, L.P.; Bain Capital Fund XII, L.P.; Vista Equity Partners Fund VI, L.P.
20181601	G	Vista Equity Partners Fund VI–A, L.P.; Bain Capital Fund XII, L.P.; Vista Equity Partners Fund VI–A, L.P.
		07/19/2018
20181560	G	KKR Americas Fund XII, L.P.; Envision Healthcare Corporation; KKR Americas Fund XII, L.P.
20181588	G	Atlantia S.p.A.; Actividades de Construccion y Servicios, S.A.; Atlantia S.p.A.
		07/20/2018
20181612	G	Platinum Equity Capital Spray Partners, L.P.; Ball Corporation; Platinum Equity Capital Spray Partners, L.P.
20181613	G	KLR Seawolf Fund, LP; Zane Kiehne; KLR Seawolf Fund, LP.
20181614	G	Cerberus Institutional Partners VI, L.P.; Vita Holding S.a.r.l; Cerberus Institutional Partners VI, L.P.
20181617	G	AT&T Inc.; AppNexus Inc.; AT&T Inc.
20181620	G	Brynwood Partners VIII L.P.; The J.M. Smucker Company; Brynwood Partners VIII L.P.
20181621	G	ORIX Corporation; NXT Voting SPV, LLC; ORIX Corporation.
20181622	G	TSG7 A L.P.; KB Wines Holdings, LLC; TSG7 A L.P.
20181624	G	Gores Holding II, Inc.; Platinum Equity Capital Partners IV, L.P.; Gores Holding II, Inc.
20181625	G	Cooper-Standard Holdings Inc.; Lauren International Ltd.; Cooper-Standard Holdings Inc.
20181627	G	Hennessy Capital Acquisition Corp. III; JFL AIV Investors III–JA, L.P.; Hennessy Capital Acquisition Corp. III.
20181629	G	Cerner Corporation; L. John Doerr; Cerner Corporation.
20181633	G	Parker Private Investments, LLC; Web.com Group, Inc.; Parker Private Investments, LLC.
20181635	G	Uzabase, Inc.; David Bradley; Uzabase, Inc.
20181641	G	Olympus Growth Fund VI, L.P.; Arbor Investments III, L.P.; Olympus Growth Fund VI, L.P.
20181642	G	Next Level Acquisition Company LLC; Yosef Simsoly and Alisa Simsolo; Next Level Acquisition Company LLC.
20181645	G	Accel Leaders Fund L.P.; Warburg Pincus Private Equity X, L.P.; Accel Leaders Fund L.P.
20181647	G	Bain Capital Europe Fund IV, L.P.; AXA LBO Fund V Core FPCI; Bain Capital Europe Fund IV, L.P.
		07/23/2018
20181623	G	Marsh & McLennan Companies, Inc.; John L. Wortham & Son, L.P.; Marsh & McLennan Companies, Inc.
20181648	G	Alex Dillard; W.D. Company, Inc.; Alex Dillard.
20181649	G	William Dillard, II; W.D. Company, Inc.; William Dillard, II.
		07/24/2018
20181549	G	Warburg Pincus Private Equity XI, L.P.; F.N.B. Corporation; Warburg Pincus Private Equity XI, L.P.

EARLY TERMINATIONS GRANTED JULY 1, 2018 THROUGH JULY 31, 2018—Continued

20181571	G	Canyon Value Realization Fund, L.P.; MGM Resorts International; Canyon Value Realization Fund, L.P.
20181572	G	The CVRF Trust; MGM Resorts International; The CVRF Trust.
20181573	G	The CBEF Master Trust; MGM Resorts International; The CBEF Master Trust.
20181616	G	Fortive Corporation; Warburg Pincus Private Equity X, L.P.; Fortive Corporation.
		07/26/2018
20181370	G	Cohu, Inc.; Xcerra Corp.; Cohu, Inc.
20181583	G	PayPal Holdings, Inc.; Primus Capital Fund VII, L.P.; PayPal Holdings, Inc.
20181604	G	Ribbon Communications Inc.; Edgewater Networks, Inc.; Ribbon Communications Inc.
20181637	G	Goldman Sachs Renewable Power LLC; South Jersey Industries, Inc.; Goldman Sachs Renewable Power LLC.
20181638	G	PGGM Cooperatie U.A.; Electricite de France S.A.; PGGM Cooperatie U.A.
		07/27/2018
20181632	G	Accor S.A.; Sam Nazarian; Accor S.A.
20181636	G	The Williams Companies, Inc.; TPG Growth III DE AIV II, L.P.; The Williams Companies, Inc.
20181654	G	KKR Americas Fund XII, L.P.; AppLovin Corporation; KKR Americas Fund XII, L.P.
20181656	G	Partners Group Access 967 L.P.; FPCI Astorg V; Partners Group Access 967 L.P.
20181658	G	Andritz AG; Xerium Technologies, Inc.; Andritz AG.
20181660	G	AIS Investment, LLC; Affinion Group Holdings, Inc.; AIS Investment, LLC.
20181663	G	Intertape Polymer Group Inc.; Piper Ridge Trust; Intertape Polymer Group Inc.
20181666	G	Green Equity Investors Side VII, L.P.; Letterone Investment Holdings S.A.; Green Equity Investors Side VII, L.P.
20181667	G	Mann Familienbeteiligungsgesellschaft mbH_Co. KG; Tri-Dim Filter Corporation; Mann Familienbeteiligungsgesellschaft mbH_Co. KG.
		07/30/2018
20181595	G	Green Plains Inc.; Marilyn and James Hebenstreit; Green Plains Inc.
20181662	G	Shanghai Fosun Pharmaceutical (Group) Co., Ltd.; Butterfly Network, Inc.; Shanghai Fosun Pharmaceutical (Group) Co., Ltd.
20181668	G	Synnex Corporation; Convergys Corporation; Synnex Corporation.
20181669	G	RoundTable Healthcare Partners IV, L.P.; Bovie Medical Corporation; RoundTable Healthcare Partners IV, L.P.
20181672	G	Spectrum Equity VII, L.P.; Lucid Software Inc.; Spectrum Equity VII, L.P.
20181673	G	The Goldman Sachs Group, Inc.; MDC Partners Inc.; The Goldman Sachs Group, Inc.
20181676	G	Insight Venture Partners IX, L.P.; ezCater, Inc.; Insight Venture Partners IX, L.P.
20181677	G	Crestview Partners III, L.P.; Advanced Marketing & Processing, Inc.; Crestview Partners III, L.P.
20181680	G	AI Global Investments & Cy S.C.A.; General Electric Company; AI Global Investments & Cy S.C.A.
20181681	G	Omnicom Group; Credera Holdings; Omnicom Group.
		07/31/2018
20180590	G	Grifols, S.A.; The Biotest Divestiture Trust; Grifols, S.A.
20181457	G	Myriad Genetics, Inc.; Counsyl, Inc.; Myriad Genetics, Inc.
20181646	G	Alphabet Inc.; Warburg Pincus Private Equity X, L.P.; Alphabet Inc.
20181683	G	NuVision Federal Credit Union; Denali Federal Credit Union; NuVision Federal Credit Union.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–20275 Filed 9–17–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3113]

Patriot Puck; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 12, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Patriot Puck'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/patriotpuckconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Patriot Puck; File No. 1823113'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Julia Solomon Ensor (202–326–2377) or Crystal Ostrum (202–326–3405), Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is

hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 12, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 12, 2018. Write ''Patriot Puck; File No. 1823113'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/patriotpuckconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''Patriot Puck; File No. 1823113'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 12, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Underground Sports Inc., d/b/a Patriot Puck; Hockey Underground Inc., d/b/a Patriot Puck; Ipuck Inc., d/b/a Patriot Puck; IPuck Hockey Inc., d/b/a Patriot Puck; and George Statler III (''Respondents'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Respondents' marketing, sale, and distribution of hockey pucks with claims that the pucks are made in the United States.

According to the FTC's complaint, Respondents represented that all of their hockey pucks are all or virtually all made in the United States. In fact, Respondents' hockey pucks are wholly imported from China. Specifically, since January of 2016, Respondents have imported 74,411 kilograms of hockey pucks, which is the equivalent of more than 400,000 standard-weight pucks. Based on the foregoing, the complaint alleges that Respondents engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent Respondents from engaging in similar acts and practices in the future. Consistent with the FTC's Enforcement Policy Statement on U.S. Origin Claims, Part I prohibits Respondents from making U.S.-origin claims for their products unless either: (1) The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits Respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and

Respondents have a reasonable basis substantiating the representation.

Parts III through VI are reporting and compliance provisions. Part III requires Respondents to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part IV requires each Respondent to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Part V requires Respondents to maintain certain records, including records necessary to demonstrate compliance with the order. Part VI requires Respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent's personnel.

Finally, Part VII is a ''sunset'' provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission, Commissioner Chopra dissenting.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Rebecca Kelly Slaughter, in Which Chairman Joe Simons Joins

When companies falsely claim that their products are made in the U.S.A., they take advantage of consumers who choose to spend their dollars supporting domestic products *and* the companies who expend resources in order to make the claim proudly and truthfully. Today, the Commission is announcing three enforcement actions [1] targeting companies and an individual who we allege falsely claimed their products were made in the U.S.A. in violation of Section 5 of the FTC Act. In *Patriot Puck,* respondent George Statler III and his companies marketed hockey pucks imported from China as ''Made in America'' and ''The only American Made Hockey Puck!'' The *Nectar Sleep* respondents included the statement ''Designed and Assembled in the USA'' in product descriptions for mattresses wholly imported from China. And in Sandpiper/PiperGear, respondents marketed imported backpacks and wallets on websites claiming ''Featuring American Made Products'' and shipped imported wallets with cards labeled ''American Made.'' The Commission's complaints allege that these claims were plainly false and the respondents have all agreed to strong administrative consent orders.

Each of the administrative consent orders prohibits the respondents from making these types of claims in the future [2] and requires the respondents to engage in recordkeeping and reporting that will assist the FTC in monitoring compliance.[3] Any violation of these orders can result in a civil penalty of over $40,000 *per violation*.[4] There is evidence that these potential penalties have served as powerful deterrents: to date the FTC has only had cause to initiate one contempt proceeding [5] against the more than twenty prior respondents in cases involving U.S.-origin claims.

In this area, administrative consent orders securing permanent injunctive relief buttressed by the threat of significant civil penalties have been largely successful in keeping former violators on the straight and narrow and have no doubt served as a warning to others that false claims will be identified and pursued. Therefore, we are voting in support of the relief set forth in the final and proposed administrative orders announced today.

We write separately to highlight the possibility that the FTC can further maximize its enforcement reach, in all areas, through strategic use of additional remedies. For example, in the U.S.-origin claim context, there may be cases in which consumers paid a clear premium for a product marketed as ''Made in the U.S.A.'' or made their purchasing decision in part based on perceived quality, safety, health or environmental benefits tied to a U.S.-origin claim.[6] In such instances, additional remedies such as monetary relief or notice to consumers may be warranted. Requiring law violators to provide notice to consumers identifying the deceptive claim can help mitigate individual consumer injury—an informed consumer would have the option to seek a refund, or, at the very least, stop using the product.

The Commission has already begun a broad review of whether we are using every available remedy as effectively as possible to fairly and efficiently pursue vigorous enforcement of our consumer protection and competition laws. If we find that there are new or infrequently applied remedies that we should be seeking more often, the Commission will act accordingly—and, where appropriate, signal to the public how we intend to approach enforcement. In our view, a thoughtful review and forward-looking plan is a more effective and efficient use of Commission resources than re-opening and re-litigating the cases before us today.[7]

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[1] To date, the Commission has initiated 25 enforcement actions arising from misleading U.S.-origin claims, targeting entities that engage in intentional deception or refuse to come into prompt compliance. FTC staff also works extensively with companies to achieve compliance in this area, issuing more than 130 closing letters addressing potential U.S.-origin claims. These letters highlight that where companies make errors or potentially deceptive claims to consumers, Commission staff works with them to quickly come into compliance. In addition to enforcement actions and compliance counseling, the Commission's program to protect consumers from deceptive U.S.-origin claims involves significant business education efforts. In 1997, the Commission issued an Enforcement Policy Statement on U.S. Origin Claims that explains the types of U.S.-origin claims that can be made and the substantiation needed to support them. Commission staff has also issued comprehensive guidance, press releases and blogs in this area to promote compliance.

[2] Specifically, the orders prohibit respondents from making deceptive unqualified U.S.-origin claims about their products and lay out the type of substantiation required to make truthful claims. The orders also govern the manner and type of qualification needed to make a lawful qualified claim regarding U.S.-origin. The orders further prohibit respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and respondents have a reasonable basis substantiating the representation.

[3] Each of the orders requires the respondents to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Respondents are also required to maintain certain records, including records necessary to demonstrate compliance with the order. The orders also require respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondents' personnel. The orders remain in effect for 20 years.

[4] Outside of specific rules, the FTC does not have authority to seek civil penalties for violations of Section 5 of the FTC Act. The FTC does have authority to seek civil penalties for any violations of its administrative orders. *See* 15 U.S.C. 45(l) and 16 CFR 1.98(d) (2018).

[5] *See https://www.ftc.gov/news-events/press-releases/2006/06/ftc-alleges-stanley-made-false-made-usa-claims-about-its-tools* (announcing settlement with Stanley Works that imposed a $205,000 civil penalty for violating prior order regarding U.S.-origin claims).

[6] Of the three cases the FTC is announcing today, we note that consideration of additional remedies such as notice could have been of particular value in the *Nectar Sleep* matter, which involved U.S.-origin claims about mattresses. The fact that purchasers of Nectar Sleep mattresses can seek a refund for any reason for 365 days after their original purchase, *https://www.nectarsleep.com/p/returns/,* and that purchasers received mattresses with accurate country-of-origin labels, contributed to our decision to vote in favor of the final *Nectar Sleep* order.

[7] It is worth noting that all of the cases announced today began well before the current complement of Commissioners were instated, and therefore before staff could reasonably have been expected to

Continued

Statement of Commissioner Rohit Chopra

Question Presented

Are no-money, no-fault settlements adequate to remedy serious violations of the FTC's ''Made in USA'' standard?

Summary

- Sellers gain a competitive advantage when they falsely market a product as Made in USA, especially when this claim is closely tied to the development of the product's brand.
- Third-party analysis suggests that Americans are often willing to pay significantly more for American-made goods compared to those made in China. Several of the matters under consideration by the Commission involve Made-in-USA fraud relating to products made in China.
- The Commission should modify its approach to resolving serious Made-in-USA fraud by seeking more tailored remedies that could include restitution, disgorgement, notice, and admissions of wrongdoing, based on the facts and circumstances of each matter.

Analysis and Discussion

The Power of Branding and Made in USA

While brand identity has historically been a major focus in markets for luxury goods, today it plays a key role in all segments of our economy. As advanced manufacturing and global supply chains challenge firms to find new ways to lower operating costs, consumer goods industries (including everything from apparel to packaged goods) have focused intensely on building and cultivating their brands as a way to drive up margins through price and volume enhancements.

Branding is distinct from marketing and advertising. A successful brand is one that creates a clear identity that goes beyond specific product attributes. A brand identity connects with a consumer's values, aspirations, and sense of self.

A Made-in-USA claim can serve as a key element of a product's brand that communicates quality, durability, authenticity, and safety, among other attributes. Not only can it be a signal about specific product attributes but it can also contribute to the development of a brand identity that connotes a set of values, such as fair labor practices, to consumers.

Made-in-USA branding can also be used to fraudulently conceal countries of origin that may cause concerns for consumers. For example, in recent years, regulators have investigated serious health and safety problems with pet food [1] and drywall [2] imported from China, and the OECD estimates that China is the source of the vast majority of counterfeit goods imported to the U.S.[3] Against this backdrop, slapping a ''Made-in-USA'' label on a good made abroad can be its own form of counterfeiting, replacing an unpopular attribute with one connoting quality, safety, and authenticity.

In many cases, Americans are actually willing to pay a premium for goods that are made in our country, especially compared to those made in China. A 2012 survey by the Boston Consulting Group shows that more than 80% of Americans express a willingness to pay more for made-in-USA products,[4] which is consistent with other surveys.[5]

Importantly, however, price premium does not always accurately capture the harm caused by Made-in-USA fraud. Especially in markets for commodity goods where consumers may be particularly price-sensitive, firms may make false claims to distinguish their brand or conceal unpopular countries of origin.

Whatever its purpose, cheating distorts markets in fundamental ways. It rips off Americans who prefer buying domestic goods. It also punishes firms that may bear higher costs to produce goods here, yet must compete on price or branding with firms that cheat. Finally, widespread deception sows doubt [6] about the veracity of Made-in-USA claims, which may reduce the claim's value and discourage domestic manufacturing.

Backpacks, Hockey Pucks, and Mattresses

Today, the Commission is voting on three cases involving Made-in-USA fraud.[7] The conduct of each of these companies was brazen and deceitful. In my view, each respondent firm harmed both consumers and honest competitors.

In the Sandpiper and Patriot Puck matters, the evidence suggests that the Made-in-USA claim was a critical component of the companies' brand identities. In the Nectar Sleep matter, the false Made-in-USA claim may have been asserted to convey health or safety benefits.

Sandpiper/PiperGear USA: Sandpiper/PiperGear USA (''Sandpiper'') built its brand of military-themed backpacks and gear on patriotism. As detailed in the FTC's complaint, the company boasted in its promotional materials about its ''US manufacturing,'' inserted ''American Made'' labels into products, and included the hashtag ''#madeinusa'' alongside social media posts.[8] The company sold thousands of backpacks on American military bases overseas.

In reality, Sandpiper imported the vast majority [9] of its products from China or Mexico, a fact the firm actively sought to hide through its aggressive Made-in-USA branding.

Patriot Puck: Hockey pucks typically are manufactured to meet certain weight, thickness, and diameter specifications. These are commodity goods. Purchasers largely see competing pucks that boast similar specifications, so brand positioning can be especially salient.

anticipate our particular priorities and views on enforcement. To renegotiate these settlements at this point, after litigation strategy was developed and executed, would require substantial investment of staff time and effort and diversion of resources from other important cases. A forward-looking set of remedy priorities will help staff develop litigation strategy in an efficient way.

[1] Food & Drug Admin., Melanine Pet Food Recall of 2007 (May 2007), *https://www.fda.gov/animalveterinary/safetyhealth/recallswithdrawals/ucm129575.htm.*

[2] Fed. Trade Comm'n, Tests for Defective Drywall (Dec. 2009), *https://www.consumer.ftc.gov/articles/0124-tests-defective-drywall.*

[3] *Global trade in fake goods worth nearly half a trillion dollars a year,* Org. for Econ. Co-Operation and Dev. (Apr. 18, 2016), *http://www.oecd.org/industry/global-trade-in-fake-goods-worth-nearly-half-a-trillion-dollars-a-year.htm.*

[4] *Made in America, Again: Understanding the value of 'Made in the USA',* The Boston Consulting Group (Nov. 2012) [Hereinafter *Made in America, Again*].

[5] *See, e.g., Made in America: Most Americans love the idea of buying a U.S.-made product instead of an import. But sometimes it's hard to tell what's real and what's not,* Consumer Reports (May 21, 2015), *https://www.consumerreports.org/cro/magazine/2015/05/made-in-america/index.htm* [hereinafter *Made in America*] (reporting on a national survey finding that 60%+ of Americans would pay a 10% premium for Made-in-USA goods); *Price of patriotism: How much extra are you willing to pay for a product that's made in America?,* Reuters (July 18, 2017), *http://fingfx.thomsonreuters.com/gfx/rngs/USA-BUYAMERICAN-POLL/01005017035/index.html* (reporting on a national survey finding that 60%+ of Americans would pay a premium of 5% or more). Of course, surveys reveal only Americans' *stated* willingness to pay a premium, not their actual buying behavior. But assuming Americans will pay *no* premium runs contrary to the available evidence, and firms' aggressive Made-in-USA branding shows they clearly see it as advantageous.

[6] *See Made in America,* supra note 5 (reporting on a national survey finding that 23% of Americans lack trust in ''Made in America'' labels).

[7] Claiming falsely that a product is Made in USA violates Section 5 of the FTC Act. Although the FTC brought a Made-in-USA case as early as 1940, Congress amended the FTC Act in 1994 to state explicitly that Made-in-USA labeling must be consistent with FTC decisions and orders. *See* 15 U.S.C. 45a.

[8] Compl. at ¶¶ 6–7.

[9] According to the Complaint, more than 95% of Sandpiper's products are imported as finished goods, while approximately 80% of PiperGear's products are either imported as finished goods or contain significant imported components. *Id.* at ¶ 7.

Patriot Puck positioned its brand as the all-American alternative to imported pucks. The company literally wrapped its pucks in the flag, embossing each one with an image of an American flag. To drive home the point, the firm claimed its pucks were ''Proudly Made in the USA,'' ''MADE IN AMERICA,'' ''100% Made in the USA!,'' and ''100% American Made!'' The firm even claimed it made ''The Only American Made Hockey Puck!'' [10]

In reality, Patriot Puck imported all of its pucks from China.[11]

That Patriot Puck priced its pucks similarly to other firms illustrates why sticker price premium alone is a poor proxy for the harm caused by Made-in-USA fraud, especially in markets for commodity goods. Hockey is closely associated with international competition, and Patriot Puck's claim to offer the ''only'' puck made in America was a clear effort to create a brand identity that would distinguish its pucks from the competition. Moreover, by pricing its pucks similarly to its competitors, Patriot Puck led consumers to believe they were getting a great deal on American-made hockey pucks, when in fact they were overpaying for pucks made in China.[12]

Nectar Sleep: Nectar Sleep is a direct-to-consumer online mattress firm founded by Silicon Valley entrepreneurs. According to a CNBC profile of the company, Nectar competes with more than 200 firms to capture a slice of the $15 billion mattress market.

Nectar mattresses are made in China, which may be a negative attribute for consumers who have health or safety concerns about Chinese-made mattresses.[13] Perhaps for this reason, the company falsely represented to consumers that its mattresses were assembled in the U.S.

Nectar's conduct had clear consequences. Competitors who actually made mattresses domestically were undercut, and consumers looking for U.S.-made mattresses—possibly for health or safety reasons—got ripped off. Further, Nectar may continue to profit from the lingering misperception that its mattresses are made in the U.S.

Addressing Made-in-USA Fraud Going Forward

Most FTC resolutions of Made-in-USA violations have resulted in voluntary compliance measures [14] or cease-and-desist orders. Indeed, none of the three settlements approved today includes monetary relief, notice to consumers, or any admission of wrongdoing.

Going forward, in cases involving egregious and undisputed Made-in-USA fraud, I believe there should be a strong presumption against simple cease-and-desist orders. Instead, the Commission should consider remedies tailored to the individual circumstances of the fraud, including redress and notice for consumers, disgorgement of ill-gotten gains, opt-in return programs, or admissions of wrongdoing.

Some general principles can inform our approach to tailoring remedies. For firms that built their core brand identity on a lie, full redress or the opportunity for opt-in refunds may be appropriate, given the centrality of the false claim and its widespread dissemination.[15] When refunds are difficult to administer or the firm lacks ability to pay, the Commission should at least seek notification to consumers or corrective advertising [16]—especially in markets where country of origin bears on health or safety. Finally, if firms' misrepresentations are undisputed and clear, the Commission should strongly consider seeking admissions—a form of accountability that is explicitly contemplated by our rules of practice.[17]

Admissions may have particular value in cases involving Made-in-USA fraud. In these cases, clear and undisputed facts may give the agency a strong basis to demand an admission from a firm. And if that firm lacks funds or records for consumer redress or disgorgement, admissions can be a powerful tool to give consumers, competitors, and counterparties tools to remedy harm, even when we cannot.[18] Moreover, because the Commission is generally limited to seeking equitable rather than punitive remedies for first-time offenses, seeking admissions is among the most effective ways we can deter lawbreaking and change the cost-benefit calculus of deception.

I hope that the Commission will reexamine its approach to tackling Made-in-USA fraud. I believe we should seek more tailored remedies that vindicate the important goals of the program and send the message that Made-in-USA fraud will not be tolerated.

Conclusion

Nectar Sleep, Sandpiper, and Patriot Puck clearly violated the law, allowing them to enrich themselves and harm their customers and competitors. Especially given widespread interest in buying American products, we should do more to protect the authenticity of Made-in-USA claims. I am concerned that no-money, no-fault settlements send an ambiguous message about our commitment to protecting consumers and domestic manufacturers from Made-in-USA fraud.

Going forward, I hope the Commission can better protect against harms to competition and consumers by seeking monetary relief, notice, admissions, and other tailored remedies. Every firm needs to understand that products labeled ''Made in USA'' should be made in the USA, and that

[10] Compl. at ¶ 9.

[11] The Commission has wisely named George Statler III, who operated the company, in its Complaint.

[12] Surveys show that Americans will pay a premium for U.S.-made sporting goods relative to those made in China, meaning they effectively discount goods made in China. *Made in America, Again* at 1. And Americans may be particularly averse to buying patriotic-themed goods made in China. *See, e.g.,* Matt Brooks, *US Olympic uniforms spark fury in Congress,* Wash. Post (July 13, 2012), *https://www.washingtonpost.com/blogs/2012-heavy-medal-london/post/us-olympic-uniforms-spark-fury-in-congress/2012/07/13/gJQABvJmhW_blog.html?utm_term=.3d96e391f1dd.*

[13] Such concerns may be tied to recent recalls of Chinese-made mattresses and bedding, and may be partially reflected in the premium Americans are willing to pay for U.S.-made furniture over furniture made in China. *See Made in America, Again* at 6. In fact, numerous consumer reviews specifically focus on comparing U.S.-made mattresses.

[14] Of course, when the violation is unintentional or technical in nature, less formal actions can be helpful, especially if the misstatement is quickly corrected. My comments are limited to matters where the violation was egregious.

[15] Particularly for misbranded products, the FTC could likely show that a firm's Made-in-USA misrepresentations were widely disseminated, that they were of the kind usually relied on by reasonable persons, and that consumers purchased the product, thus making gross sales an appropriate starting point for calculating restitution. *See FTC* v. *Kuykendall, 371 F.3d 745, 764 (10th Cir. 2004) (holding, in a contempt action, that after the Commission establishes a presumption of reliance, ''the district court may use the Defendants' gross receipts as a starting point''). Importantly, if there was deception in the sale, defendants generally do not receive credit for the value of the product sold. See FTC* v. *Figgie Int'l, Inc., 994 F.2d 595, 606–07 (9th Cir. 1993)* (''*The fraud in the selling, not the value of the thing sold, is what entitles consumers*'' *to full redress.).*

[16] Corrective advertising can be important to preventing firms from continuing to profit from deception. As explained by then-Chairman Pitofsky after a corrective advertising order was upheld by the D.C. Circuit, ''It is important for advertisers to know that it is not enough just to discontinue a deceptive ad, and that they can be held responsible for the lingering misimpressions created by deceptive advertising.'' *See* Press Release, Fed. Trade Comm'n, Appeals Court Upholds FTC Ruling; Doan's Must Include Corrective Message in Future Advertising and Labeling (Aug. 21, 2000), *https://www.ftc.gov/news-events/press-releases/2000/08/appeals-court-upholds-ftc-ruling-doans-must-include-corrective.*

[17] *See* 16 CFR 2.32.

[18] For example, a factual admission may have a preclusive effect in a Lanham Act claim by a competitor.

fake branding will come with real consequences.

[FR Doc. 2018–20272 Filed 9–17–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED AUGUST 1, 2018 THRU AUGUST 31, 2018

	08/02/2018	
20181399	G	Tyson Family 2009 Trust; Thomas N. Bagwell; Tyson Family 2009 Trust.
	08/03/2018	
20181417	G	UnitedHealth Group Incorporated; PH Holdings, L.L.C.; UnitedHealth Group Incorporated.
20181626	G	Churchill Downs Incorporated; Eldorado Resorts, Inc.; Churchill Downs Incorporated.
20181653	G	Oakland County Credit Union; Vibe Credit Union; Oakland County Credit Union.
20181689	G	Atos SE; Syntel, Inc.; Atos SE.
20181697	G	The Timken Company; Clyde Blowers Capital Fund III LP; The Timken Company.
20181698	G	The Interpublic Group of Companies, Inc.; Acxiom Corporation; The Interpublic Group of Companies, Inc.
20181700	G	PSP Public Credit I Inc.; Permira V L.P. 2; PSP Public Credit I Inc.
20181702	G	Salesforce.com, Inc.; Datorama Inc.; Salesforce.com, Inc.
20181703	G	Ashtead Group plc; Matthew Lange and Karen Lange; Ashtead Group plc.
20181707	G	KKR Americas Fund XII, L.P.; Shamrock RB Co-Invest, LLC; KKR Americas Fund XII, L.P.
20181709	G	Francisco Partners V, L.P.; Permira V L.P.2; Francisco Partners V, L.P.
20181716	G	Kao Corporation; Gryphon Partners 3.5, L.P.; Kao Corporation.
20181718	G	Cambrex Corporation; SKCP III Angel AIV L.P.; Cambrex Corporation.
20181721	G	Asahi Kasei Corporation; Clearlake Capital Partners III, L.P.; Asahi Kasei Corporation.
	08/06/2018	
20181671	G	CACI International Inc.; General Dynamics Corporation; CACI International Inc.
20181711	G	The Veritas Capital Fund V, L.P.; Sharon B. Martin and Sydney F. Martin; The Veritas Capital Fund V, L.P.
	08/07/2018	
20181726	G	Michael S. Dell; Independence Contract Drilling, Inc.; Michael S. Dell.
20181727	G	Independence Contract Drilling, Inc.; Michael S. Dell; Independence Contract Drilling, Inc.
	08/08/2018	
20181701	G	Future plc; ABS Capital Partners VI, L.P.; Future plc.
	08/10/2018	
20181644	G	Alphabet Inc.; Neutron Holdings, Inc.; Alphabet Inc.
20181661	G	Perceptive Life Sciences Master Fund, Ltd.; Paul B. Manning; Perceptive Life Sciences Master Fund, Ltd.
20181722	G	CVC Capital Partners VII (A) L.P.; FIMEI S.p.A.; CVC Capital Partners VII (A) L.P.
20181734	G	EQT VIII (No. 1) SCSp; Apax VIII–B L.P.; EQT VIII (No. 1) SCSp.
20181743	G	GSO CSF III Holdco LP; Differential Brands Group Inc.; GSO CSF III Holdco LP.
20181744	G	GSO Capital Opportunities Fund III LP; Differential Brands Group Inc.; GSO Capital Opportunities Fund III LP.
20181745	G	Differential Brands Group Inc.; Global Brands Group Holding Limited; Differential Brands Group Inc.
20181746	G	Welsh, Carson, Anderson & Stowe XII, L.P.; NEW Asurion Corporation; Welsh, Carson, Anderson & Stowe XII, L.P.
20181759	G	PGGM Cooperatie U.A.; SUEZ S.A.; PGGM Cooperatie U.A.
20181760	G	The Procter & Gamble Company; Lilli Gordon; The Procter & Gamble Company.
20181762	G	New Jersey Resources Corporation; Riverstone Global Energy and Power Fund V (FT), L.P.; New Jersey Resources Corporation.
20181764	G	Accel Growth Fund II L.P.; Freshworks Inc.; Accel Growth Fund II L.P.
20181768	G	Pfizer Inc.; AT Impf GmbH; Pfizer Inc.
20181785	G	Providence Equity Partners VIII L.P.; NEW Asurion Corporation; Providence Equity Partners VIII L.P.
20181786	G	Providence Equity Partners VIII–A L.P.; NEW Asurion Corporation; Providence Equity Partners VIII–A L.P.
20181787	G	PEP VIII Antares Co-Investment L.P.; NEW Asurion Corporation; PEP VIII Antares Co-Investment L.P.
20181803	G	Odyssey Investment Partners Fund V, LP; AEA Investors Small Business Fund II LP; Odyssey Investment Partners Fund V, LP.

EARLY TERMINATIONS GRANTED AUGUST 1, 2018 THRU AUGUST 31, 2018—Continued

		08/13/2018
20181705	G	Hitachi Ltd.; Nirupama Vasireddy; Hitachi Ltd.
20181765	G	Archer-Daniels-Midland Company; Joseph H. Basta; Archer-Daniels-Midland Company.
20181767	G	Archer-Daniels-Midland Company; Daniel L. Berlin; Archer-Daniels-Midland Company.
20181773	G	Matlin & Partners Acquisition Corp.; USWS Holdings LLC; Matlin & Partners Acquisition Corp.
20181775	G	Intertek Group plc; Riverside Micro-Cap Fund II, L.P.; Intertek Group plc.
20181780	G	Ultra Clean Holdings, Inc.; Quantum Global Technologies, LLC; Ultra Clean Holdings, Inc.
		08/14/2018
20181682	G	Trident VII, L.P.; Sabal Capital Partners, LLC; Trident VII, L.P.
20181733	G	Agnaten SE; Compagnie Industrielle et Financiere des Produits Amyla; Agnaten SE.
20181752	G	Summit Partners Growth Equity Fund IX–A, L.P.; Warburg Pincus Private Equity XI, L.P.; Summit Partners Growth Equity Fund IX–A, L.P.
20181795	G	Invengo Information Technology Co., Ltd.; OEP VI Feeder (Cayman), L.P.; Invengo Information Technology Co., Ltd.
		08/15/2018
20181728	G	MDCP VII Auxillary SPV, L.P.; New Asurion Corporation; MDCP VII Auxillary SPV, L.P.
		08/16/2018
20181664	G	DXC Technology Company; Molina Healthcare, Inc.; DXC Technology Company.
20181712	G	New Mountain Partners V, L.P.; GTCR Fund IX/A, L.P.; New Mountain Partners V, L.P.
20181776	G	Logitech International S.A.; Riverside Micro-Cap Fund II, L.P.; Logitech International S.A.
		08/17/2018
20181790	G	GUO GUANGCHANG; Dr. Lutz M. Helmig and Dagmar Helmig; GUO GUANGCHANG.
20181794	G	Christopher Grassi; Trivest Partners IV, L.P.; Christopher Grassi.
20181801	G	KKR Core Holding Company LLC; BC Ventures Investor, LLC; KKR Core Holding Company LLC.
20181802	G	Berkshire Fund IX, L.P.; New Asurion Corporation; Berkshire Fund IX, L.P.
20181811	G	Gryphon Partners V, L.P.; REP TI Holdings, LLC; Gryphon Partners V, L.P.
20181814	G	State Street Corporation; Peter K. Lambertus; State Street Corporation.
20181816	G	BP p.l.c.; BHP Billiton Limited; BP p.l.c.
20181821	G	Tenex Capital Partners II, L.P.; Leon Howard Holdings, Inc.; Tenex Capital Partners II, L.P.
20181822	G	Green Equity Investors Side VII, L.P.; Great Hill Equity Partners IV, LP; Green Equity Investors Side VII, L.P.
20181825	G	AptarGroup Inc.; Wendel SE; AptarGroup Inc.
20181837	G	Lydall, Inc.; Wind Point Partners VII–A, L.P.; Lydall, Inc.
20181838	G	Roark Capital Partners, LP; Jamba, Inc.; Roark Capital Partners, LP.
		08/20/2018
20181750	G	Mylan N.V.; Novartis AG; Mylan N.V.
20181805	G	Jeffrey Broin; Sioux River Ethanol, LLC; Jeffrey Broin.
20181806	G	Jeffrey Broin; Northern Growers, LLC; Jeffrey Broin.
20181809	G	Jeffrey Broin; Great Plains Ethanol, LLC; Jeffrey Broin.
20181810	G	Jeffrey Broin; Voyager Ethanol, LLC; Jeffrey Broin.
20181828	G	Canada Pension Plan Investment Board; Chesapeake Energy Corporation; Canada Pension Plan Investment Board.
20181829	G	EQT VIII (No. 1) SCSp; Micro Focus International plc; EQT VIII (No. 1) SCSp.
20181835	G	TCV IX, L.P.; Peloton Interactive, Inc.; TCV IX, L.P.
20181836	G	Jeffery D. Hildebrand; The Williams Companies, Inc; Jeffery D. Hildebrand.
20181839	G	Agnaten SE; Insomnia Cookies Holdings, LLC; Agnaten SE.
		08/21/2018
20181699	G	Akebia Therapeutics, Inc.; Keryx Biopharmaceuticals, Inc.; Akebia Therapeutics, Inc.
20181777	G	Lightyear Fund III, L.P.; Manulife Financial Corporation; Lightyear Fund III, L.P.
		08/22/2018
20181843	G	Yellow Wood Partners II, L.P.; WP-Paris Co-Invest, L.P.; Yellow Wood Partners II, L.P.
		08/23/2018
20181844	G	Regeneron Pharmaceuticals, Inc.; bluebird bio, Inc.; Regeneron Pharmaceuticals, Inc.
		08/24/2018
20181841	G	Chubu Electric Power Co., Inc.; Co-Investor 3, L.L.C.; Chubu Electric Power Co., Inc.
20181842	G	Tokyo Electric Power Company Holdings, Inc.; Co-Investor 3, L.L.C.; Tokyo Electric Power Company Holdings, Inc.
20181846	G	Fortive Corporation; Athena SuperHoldCo, Inc.; Fortive Corporation.
20181848	G	Cisco Systems, Inc.; Duo Security, Inc.; Cisco Systems, Inc.
20181850	G	BCP FC Aggregator LP; TaskUS, Inc.; BCP FC Aggregator LP.

EARLY TERMINATIONS GRANTED AUGUST 1, 2018 THRU AUGUST 31, 2018—Continued

20181851	G	Infrastructure and Energy Alternatives, Inc.; Meadow Valley Resources LLC; Infrastructure and Energy Alternatives, Inc.
20181855	G	Thomas H. Lee Parallel Fund VIII, L.P.; Post Holdings, Inc.; Thomas H. Lee Parallel Fund VIII, L.P.
20181857	G	Thomas H. Lee Equity Fund VIII, L.P.; Post Holdings, Inc.; Thomas H. Lee Equity Fund VIII, L.P.
20181872	G	Enercare Agg LP; Enercare Inc.; Enercare Agg LP.
20181877	G	ACON Equity Partners IV, L.P.; Newell Brands Inc.; ACON Equity Partners IV, L.P.
08/27/2018		
20181729	G	EIF United States Power Fund IV, L.P.; Phillips 66; EIF United States Power Fund IV, L.P.
20181804	G	Trident GRS Splitter LLC; Conduent Inc.; Trident GRS Splitter LLC.
20181863	G	Sentgraf Spousal Trust; Xtreme Drilling Corp.; Sentgraf Spousal Trust.
08/28/2018		
20181860	G	Bessemer Securities LLC; Phillip S. Rhee; Bessemer Securities LLC.
20181867	G	Bessemer Securities LLC; Oscar and Veronica Saavedra; Bessemer Securities LLC.
20181869	G	Kosmos Energy Ltd.; DGE III New Holdco, LLC; Kosmos Energy Ltd.
08/29/2018		
20181815	G	Senator Global Opportunity Offshore Fund II Ltd.; MGM Resorts International; Senator Global Opportunity Offshore Fund II Ltd.
20181817	G	RealPage, Inc.; Dana Zeff; RealPage, Inc.
20181823	G	Silver Lake Partners V, L.P.; GoodRx Holdings, Inc.; Silver Lake Partners V, L.P.
20181832	G	Trelleborg AB (publ); Precision Associates, Inc.; Trelleborg AB (publ).
20181880	G	Ontario Power Generation Inc.; Desmarais Family Residuary Trust; Ontario Power Generation Inc.
20181884	G	MidOcean Partners V, L.P.; Shamrock Capital Growth Fund III, L.P.; MidOcean Partners V, L.P.
20181886	G	Moda Midstream, LLC; Occidental Petroleum Corporation; Moda Midstream, LLC.
20181887	G	EnCap Flatrock Midstream Fund IV, L.P.; Occidental Petroleum Corporation; EnCap Flatrock Midstream Fund IV, L.P.
08/30/2018		
20181868	G	Siemens Aktiengesellschaft; Mendix Holding B.V.; Siemens Aktiengesellschaft.
08/31/2018		
20181796	G	Grubhub Inc.; SCVNGR, Inc.; Grubhub Inc.
20181831	G	Vista Equity Partners Fund VI, L.P.; Alegeus Technologies Holdings Corp.; Vista Equity Partners Fund VI, L.P.
20181834	G	SS&C Technologies Holdings, Inc.; Convoy Diamondback Holdings, L.P.; SS&C Technologies Holdings, Inc.
20181849	G	Biogen Inc.; Samsung BioLogics Co., Ltd.; Biogen Inc.
20181856	G	VanEck Vectors ETF Trust; New Gold Inc.; VanEck Vectors ETF Trust.
20181864	G	Basswood Capital Management, LLC; Ally Financial Inc.; Basswood Capital Management, LLC.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–20274 Filed 9–17–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Vicki Barber, Chief Human Capital Officer, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2700.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings, performance awards, and pay-for-performance pay adjustments to the Chairman.

The following individuals have been designated to serve on the Commission's Performance Review Board:

David Robbins, Executive Director, Chairman
Marian Bruno, Deputy Director, Bureau of Competition
Daniel Kaufman, Deputy Director, Bureau of Consumer Protection
Michael Vita, Deputy Director, Bureau of Economics
James Dolan, Principal Deputy General Counsel

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–20198 Filed 9–17–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0696]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National HIV Prevention Program Monitoring and Evaluation (NHM&E)'' 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 23, 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

National HIV Prevention Program Monitoring and Evaluation (NHM&E) (OMB 0920–0696, Expiration 02/28/2019)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a three-year approval for revision to the previously approved project. The purpose of this revision is to continue collecting standardized HIV prevention program evaluation data from health departments and community-based organizations (CBOs) who receive federal funds for HIV prevention activities. Health department grantees have the option of key-entering or uploading data to a CDC-provided web-based software application (EvaluationWeb®). CBO grantees may only key-enter data to the CDC-provided web-based software application. This revision includes changes to the data variables to adjust to the different monitoring and evaluation needs of new funding announcements without a substantial change in burden.

The evaluation and reporting process is necessary to ensure that CDC receives standardized, accurate, thorough evaluation data from both health department and CBO grantees. For these reasons, CDC developed standardized NHM&E variables through extensive consultation with representatives from health departments, CBOs, and national partners (*e.g.,* The National Alliance of State and Territorial AIDS Directors and Urban Coalition of HIV/AIDS Prevention Services).

CDC requires CBOs and health departments who receive federal funds for HIV prevention to report non-identifying, client-level and aggregate level, standardized evaluation data to: (1) Accurately determine the extent to which HIV prevention efforts are carried out, what types of agencies are providing services, what resources are allocated to those services, to whom services are being provided, and how these efforts have contributed to a reduction in HIV transmission; (2) improve ease of reporting to better meet these data needs; and (3) be accountable to stakeholders by informing them of HIV prevention activities and use of funds in HIV prevention nationwide.

CDC HIV prevention program grantees will collect, enter or upload, and report agency-identifying information, budget data, intervention information, and client demographics and behavioral risk characteristics with an estimate of 204,498 burden hours; a decrease from the previously approved, 206,226 burden hours. Data collection will include searching existing data sources, gathering and maintaining data, document compilation, review of data, and data entry or upload into the web based system. There are no additional costs to respondents other than their time. The total annual burden hours are 204,498.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Health departments	Health Department Reporting (att 5b)	66	2	1,426.5
Community-Based Organizations	Community-Based Organization Reporting (att 5b)	150	2	54

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. 2018–20244 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–18AWP; Docket No. CDC–2018–0083]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled *Using Social Media for Recruitment in Cancer Prevention and Control Survey-Based Research (SMFR) project.* The SMFR project aims to better understand how individuals at high-risk for cancer discuss risk and genetic testing with their families, while evaluating the feasibility of using social media to conduct survey-based cancer prevention and control research for survey recruitment.

DATES: CDC must receive written comments on or before November 19, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0083 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Using Social Media for Recruitment in Cancer Prevention and Control Survey-Based Research (SMFR) project—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This project involves formative research to assess the feasibility of using social media to conduct survey-based cancer prevention and control research for study recruitment. To achieve this goal, the project will field four online surveys for three distinct populations using Facebook, Twitter, and Google ads as tools for recruitment. Sampling bias and ability to use weights, among other statistical methods, to correct for potential bias will be assessed at the conclusion of the study.

This project has two aims:

Aim 1: To develop and launch surveys with three populations of interest to cancer prevention and control research using social media platforms for study recruitment. This will consist of using Facebook, Twitter, and Google ads to recruit participants from three groups: The general population (for cancer screening), cancer survivors, and those at high risk for cancer. Survey questions will be taken from previously administered national surveys, such as NHIS, HINTS, and MEPS, in addition to questions specially developed for this study.

Aim 2: To assess the extent of sampling bias associated with surveys using social media platforms as frames for non-proportional sampling and the ability to use weights or other statistical methods to correct for potential biases. Content for the social media surveys will include questions from nationally representative surveys (such as the National Health Interview Survey) to enable socio-demographic and health history comparisons with nationally representative populations. In addition we will explore the ability to use post-stratification weights, propensity scores, or other statistical methods to address issues of potential sampling bias.

The first survey will target the general population, focusing on cancer screening and access to care. The second survey will target cancer survivors and focus on general health and well-being post-treatment. The third and fourth surveys will target those at high risk for cancer focusing on communication of genetic risk among family members and the tools and resources needed for risk communication.

Individuals will be recruited to participate in the web survey through ads posted on social media sites including Facebook, Twitter, and Google Analytics. Self-reported data provided on users' profile pages may be applied for targeting to maximize the value of each ad.

- Ads for the general population survey will be targeted toward users whose profiles indicate they are 40 or older. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the general population survey, 1,500 individuals will need to be screened.

• Ads for the survivorship survey will be targeted toward users who 'like', search, and/or visit web pages geared toward survivors, such as the National Cancer Survivors Day Facebook page. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the survivorship survey, 3,000 individuals will need to be screened.

• Ads for the high-risk survey will be targeted toward users who 'like', visit, or search for terms related to cancer and genetic testing. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the high-risk survey, 2,000 individuals will need to be screened.

• Eligible high-risk participants will be invited via email to participate in the follow-up high-risk survey. Additional social media ads may also be placed, using the targeting methods described above. In order to survey 1,000 high-risk adults, it is expected that an additional 4,000 individuals will be screened.

Participation in this project is completely voluntary and there are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adults over 40	Survey Screener	1,500	1	2/60	50
Cancer Survivors	Survey Screener	3,000	1	2/60	100
Adults at High Risk for Cancer	Survey Screener	2,000	1	2/60	67
Adults at High Risk for Cancer	Follow-Up Screener	4,000	1	2/60	133
Adults over 40	General Population Survey	1,000	1	22/60	367
Cancer Survivors	Survivorship Survey	1,000	1	15/60	250
Adults at High Risk for Cancer	High-Risk Survey	1,000	1	19/60	317
Adults at High Risk for Cancer	High-Risk Follow-Up Survey	1,000	1	17/60	283
Total					1,567

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. 2018–20247 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—DP19–002, Packaging and Spreading Proven Pediatric Weight Management Interventions for Use by Low-Income Families.

Dates: December 11–12, 2018.

Times: 10:00 a.m.–6:00 p.m., EST.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

FOR FURTHER INFORMATION CONTACT: Jaya Raman Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, Mailstop, F80, Atlanta, Georgia 30341, Telephone: (770) 488–6511, *kva5@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2018–20289 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–1061; Docket No. CDC–2018–0087]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Behavioral Risk Factor Surveillance System (BRFSS), an annual state-based health survey that produces state-level information on health risk behaviors, health conditions, and preventive health practices that are associated with chronic diseases, infectious diseases, and injury.

DATES: CDC must receive written comments on or before November 19, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0087 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Behavioral Risk Factor Surveillance System (BRFSS)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting OMB approval to revise information collection for the Behavioral Risk Factor Surveillance System (BRFSS) for the period of 2019–2022. The BRFSS is a nationwide system of cross-sectional telephone health surveys administered by health departments in states, territories, and the District of Columbia (collectively referred to here as states) in collaboration with CDC. The BRFSS produces state-level information primarily on health risk behaviors, health conditions, and preventive health practices that are associated with chronic diseases, infectious diseases, and injury. Designed to meet the data needs of individual states and territories, the CDC sponsors the BRFSS information collection project under a cooperative agreement with states and territories. Under this partnership, BRFSS state coordinators determine questionnaire content with technical and methodological assistance provided by CDC. For most states and territories, the BRFSS provides the only sources of data amenable to state and local level health and health risk indicator uses. Over time, it has also developed into an important data collection system that federal agencies rely on for state and local health information and to track national health objectives such as Healthy People.

CDC bases the BRFSS questionnaire on modular design principles to accommodate a variety of state-specific needs within a common framework. All participating states are required to administer a standardized core questionnaire, which provides a set of shared health indicators for all BRFSS partners. The BRFSS core questionnaire consists of fixed core, rotating core, and emerging core questions. Fixed core questions are asked every year. Rotating core questions cycle on and off the core questionnaire during even or odd years, depending on the question. Emerging core questions are included in the core questionnaire as needed to collect data on urgent or emerging health topics such as influenza. In addition, the BRFSS includes a series of optional modules on a variety of topics. In off years, when the rotating questions are not included in the core questionnaire, they are offered to states as optional modules. This framework allows each state to produce a customized BRFSS survey by appending selected optional modules to the core survey. States may select which, if any, optional modules to administer. As needed, CDC provides technical and methodological assistance to state BRFSS coordinators in the construction of their state-specific surveys. Each state administers its BRFSS questionnaire throughout the calendar year.

CDC periodically updates the BRFSS core survey and optional modules. The purpose of this Revision request is to add the following topics to the questionnaires: Myalgic encephalomyelitis/chronic fatigue syndrome; hepatitis treatment; adverse childhood experiences; food stamps; and opioid use and misuse. In addition, this request seeks approval for reinstating topics which have been included in BRFSS in the past, dependent upon state interest and funding.

Participation is voluntary and there is no cost to participate. The average time burden per response will be 22 minutes. The total annual time burden across all respondents will be approximately 241,519 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
U.S. General Population	Landline Screener	375,000	1	1/60
	Cell Phone Screener	292,682	1	1/60
	Field Test Screener	900	1	1/60
Annual Survey Respondents (Adults >18 Years).	BRFSS Core Survey	480,000	1	15/60
	BRFSS Optional Modules	440,000	1	15/60
Field Test Respondents (Adults >18 Years) ..	Field Test Survey	500	1	45/60

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. 2018–20248 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0840]

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 ''Formative Research and Tool Development'' 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 23, 2018 to obtain comments from the public and affected agencies. CDC received one comment 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

Formative Research and Tool Development (OMB Control No. 0920–0840, Expiration 1/31/2019)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP) requests approval for an extension and a three year approval for the previously approved Generic Clearance, ''Formative Research and Tool Development''. This information collection request is designed to allow NCHHSTP to conduct formative research information collection activities used to inform many aspects of surveillance, communications, health promotion, and research project development for NCHHSTP's four priority diseases (HIV/AIDS, sexually transmitted diseases/infections (STD/STI), viral hepatitis, tuberculosis elimination and the Division of School and Adolescent Heath (DASH). Formative research is the basis for developing effective strategies including communication channels, for influencing behavior change. It helps researchers identify and understand the characteristics/interests, behaviors and needs of target populations that influence their decisions and actions.

Formative research is integral in developing programs, as well as improving existing and ongoing programs. Formative research also looks at the community in which a public health intervention is being or will be implemented, and helps the project staff understand the interests, attributes and needs of different populations and persons in that community. Formative research is research that occurs before a program is designed and implemented, or while a program is being conducted. NCHHSTP formative research is necessary for developing new programs or adapting programs that deal with the complexity of behaviors, social context, cultural identities, and health care that underlie the epidemiology of HIV/AIDS, viral hepatitis, STDs, and TB in the U.S, as well as for school and adolescent health. CDC conducts formative research to develop public-sensitive communication messages and user friendly tools prior to developing or recommending interventions, or care. Sometimes these studies are entirely behavioral but most often they are cycles of interviews and focus groups designed to inform the development of a product.

Products from these formative research studies will be used for prevention of HIV/AIDS, Sexually Transmitted Infections (STI), viral Hepatitis, and Tuberculosis. Findings from these studies may also be presented as evidence to disease-specific National Advisory Committees, to support revisions to recommended prevention and intervention methods, as well as new recommendations.

Much of CDC's health communication takes place within campaigns that have fairly lengthy planning periods—timeframes that accommodate the standard Federal process for approving data collections. Short term qualitative interviewing and cognitive research techniques have previously proven invaluable in the development of scientifically valid and population-appropriate methods, interventions, and instruments.

This request includes studies investigating the utility and acceptability of proposed sampling and recruitment methods, intervention contents and delivery, questionnaire domains, individual questions, and interactions with project staff or electronic data collection equipment. These activities will also provide information about how respondents answer questions and ways in which question response bias and error can be reduced. This request also includes collection of information from public health programs to assess needs related to initiation of a new program activity, or expansion or changes in scope, or implementation of existing program activities to adapt them to current needs. The information collected will be used to advise programs and provide capacity-building assistance tailored to identified needs.

Overall, these development activities are intended to provide information that will increase the success of the surveillance or research projects through increasing response rates and decreasing response error, thereby decreasing future data collection burden to the public. The studies that will be covered under this request will include one or more of the following investigational modalities: (1) Structured and qualitative interviewing for surveillance, research, interventions and material development, (2) cognitive interviewing for development of specific data collection instruments, (3) methodological research, (4) usability testing of technology-based instruments and materials, (5) field testing of new methodologies and materials, (6) investigation of mental models for health decision-making, to inform health communication messages, and (7) organizational needs assessments to support development of capacity.

Respondents who will participate in individual and group interviews (qualitative, cognitive, and computer assisted development activities) are selected purposively from those who respond to recruitment advertisements. In addition to utilizing advertisements for recruitment, respondents who will participate in research on survey methods may be selected purposively or systematically from within an ongoing surveillance or research project. The total burden hours for this collection is 46,516. Participation of respondents is voluntary. There is no cost to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response
General public	Screener	56,840	1	10/60
Health care providers	Screener	24,360	1	10/60
General public	Consent Forms	28,420	1	5/60
Health care providers	Consent Forms	12,180	1	5/60
General public	Individual Interview	4,620	1	1
Health care providers	Individual Interview	1,980	1	1
General public	Focus Group Interview	2,800	1	2
Health care providers	Focus Group Interview	1,200	1	2
General public	Survey of Individual	21,000	1	30/60
Health care providers	Survey of Individual	9,000	1	30/60

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. 2018–20245 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2016–0001; Docket Number NIOSH 260–A]

Revised Draft NIOSH Current Intelligence Bulletin: Health Effects of Occupational Exposure to Silver Nanomaterials

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of draft document available for public comment and online public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following draft document for public comment titled *Current Intelligence Bulletin: Health Effects of Occupational Exposure to Silver Nanomaterials.* To view the notice, document and related materials, visit *https://www.regulations.gov* and enter CDC–2016–0001 in the search field and click ''Search''.

DATES: The public online meeting will be held on October 30, 2018, 1 p.m.–4:30 p.m., Eastern Time, or until the last public commenter has spoken, whichever occurs first. The public online meeting will be a web-based event available only by remote access. Members of the public who wish to provide public comments should plan to login to the meeting at the start time listed. Members of the public who register with the NIOSH Docket Office, *niocindocket@cdc.gov* to attend the public meeting will be provided the login information prior to the meeting.

ADDRESSES: Written comments submitted to the docket must be received by November 30, 2018. Written comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

FOR FURTHER INFORMATION CONTACT: Charles Geraci, NIOSH/EID/NTRC, Robert A. Taft Laboratories, 1090

Tusculum Avenue, Cincinnati, OH 45226, (513) 533–8339 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background: In response to public and peer review comments on the NIOSH draft document titled *Current Intelligence Bulletin: Health Effects of Occupational Exposure to Silver Nanomaterials,* NIOSH has developed a revised draft document and released it for public comment [*https://www.regulations.gov*]. Regarding the previous draft document, notices of a public meeting and comment period were published on January 21, 2016 [81 FR 342], and February 10, 2016 [81 FR 7124]. A public meeting was held on March 23, 2016, and members of the public, stakeholders, and scientific peers were given the opportunity to provide comments by April 22, 2016. In the interest of completeness and transparency, NIOSH is making available the public and peer reviewer comments received on the previous draft document and the NIOSH responses to those comments at [*https://www.regulations.gov*]. NIOSH has carefully considered the review comments on the previous draft in developing the current draft document. For the current review, NIOSH is requesting comments on the August 2018 draft NIOSH document only.

This revised draft document provides an updated scientific literature review of information pertaining to occupational exposure to silver nanomaterials. This literature review includes studies on the toxicological effects of exposure to silver nanomaterials in experimental animal and cellular systems, the effect of particle size and other properties on the toxicological effects of silver, and NIOSH recommendations on the measurement and control of occupational exposures to silver and silver nanomaterials. NIOSH assessed the potential health risks of occupational exposure to silver nanomaterials by evaluating the scientific literature. Studies in animals have shown adverse lung and liver effects associated with exposure to silver nanoparticles. Based on an assessment of these data, NIOSH developed a recommended exposure limit (REL) for silver nanomaterials. This new draft REL applies to processes that produce or use silver nanomaterials. In addition, NIOSH continues to recommend its existing REL for total silver (metal dust and soluble compounds, as Ag) [*www.cdc.gov/niosh/npg/npgd0557.html*].

NIOSH further recommends the use of workplace exposure assessments, engineering controls, safe work procedures, training and education, and established medical surveillance approaches to prevent potential adverse health effects from exposure to silver nanomaterials. NIOSH proposes research needs to fill remaining data gaps on the potential adverse health effects of occupational exposure to silver nanomaterials.

The purpose of the public review of the draft document is to obtain comments on whether the proposed NIOSH draft document (1) adequately and clearly describes the scientific literature on the potential adverse health effects of silver nanomaterials, and (2) demonstrates that the NIOSH recommendations on occupational exposure to silver nanomaterials are consistent with current scientific knowledge.

Purpose of Public Meeting

To discuss and obtain comments on the revised August 2018 draft NIOSH document, ''*Current Intelligence Bulletin: Health Effects of Occupational Exposure to Silver Nanomaterials*''. Special emphasis will be placed on discussion of the following questions for reviewers:

(1) Does the draft document accurately identify and characterize the health hazards of exposures to silver and silver nanomaterials based on the available scientific literature?

(2) Are the risk assessment and dosimetry modeling methods presented in the draft document consistent with current scientific knowledge and practice?

(3) Is the relationship between exposure to silver nanomaterials and biological activity (toxicity) accurately portrayed in the draft document?

(4) Is the available scientific evidence fully described regarding the human health relevance of the adverse health endpoints observed in rats associated with exposure to silver nanomaterials?

(5) Is the proposed recommended exposure limit (REL) well-supported by the scientific data presented in the document?

(6) Are the sampling and analytical methods proposed for silver nanomaterials adequate to measure worker exposure?

(7) Are the recommended strategies for controlling exposure to silver and silver nanomaterials (*e.g.,* engineering controls, work practices, personal protective equipment) reasonable?

(8) Are the important data gaps and future research needs complete and clearly described?

Online Public Meeting

The meeting is open to the public, limited only by the number of logins available. The Adobe Connect license accommodates approximately 500 people. In addition, there will be an audio conference for those who cannot login through a computer. There is no registration fee to attend this public online meeting. However, those wishing to attend are encouraged to register via email to NIOSH Docket Office *niocindocket@cdc.gov* by October 23, 2018. Registrants will be provided with the public meeting login information prior to the meeting. Individuals wishing to speak during the meeting may sign up when registering. Those who have not signed up to present in advance may be allowed to present at the meeting if time allows. Persons wanting to provide oral comments will be permitted up to 20 minutes. If additional time becomes available, presenters will be notified. Oral comments given at the meeting may also be submitted to the docket in writing to assure they are accurately recorded by the Agency.

Priority for attendance will be given to those providing oral comments. Other requests to attend the meeting will then be accommodated on a first-come basis. Unreserved attendees will be admitted as login space allows.

Instructions: All material submitted to the Agency should reference the agency name and docket number [CDC–2016–0001; NIOSH 260–A]. Each person making a comment will be asked to give his or her name and affiliation, and all comments (including their name and affiliation) will be posted without change to *https://www.regulations.gov.* All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, Room 155, 1150 Tusculum Avenue, Cincinnati, Ohio 45226–1998.

Dated: September 12, 2018.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–20169 Filed 9–17–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of Intent To Issue an OPDIV-Initiated Supplement Under the Standing Announcement for Residential (Shelter) Services for Unaccompanied Children, HHS–2017–ACF–ORR–ZU–1132

AGENCY: Unaccompanied Alien Children's (UAC) Program, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S Department of Health and Human Services (HHS).

ACTION: Notice of intent to issue an OPDIV-Initiated Supplement.

SUMMARY: Administration for Children and Families, Office of Refugee Resettlement, announces the intent to issue an OPDIV-Initiated Supplement in multiple installments to BCFS Health and Human Services, San Antonio, TX. The aggregate total of the multiple installments will not exceed $367,860,381. The first two installments will be issued prior to September 30, 2018. The remaining installments will be issued after September 30, 2018 on to be determined dates. ORR has been identifying additional capacity to provide shelter for potential increases in apprehensions of Unaccompanied Children at the U.S. Southern Border. Planning for increased shelter capacity is a prudent step to ensure that ORR is able to meet its responsibility, by law, to provide shelter for Unaccompanied Alien Children referred to its care by the Department of Homeland Security (DHS). To ensure sufficient capacity to provide shelter to unaccompanied children referred to HHS, BCFS proposed to provide ORR with 3,800 beds in an expedited manner.

DATES: Supplemental award funds will support activities through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement, 330 C Street SW, Washington, DC 20447. Phone: 202–401–4997. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: ORR is continuously monitoring its capacity to shelter the unaccompanied children referred to HHS, as well as the information received from interagency partners, to inform any future decisions or actions.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing program and its services through this supplemental award is a key strategy for ORR to be prepared to meet its responsibility to provide shelter for Unaccompanied Children referred to its care by DHS and so that the U.S. Border Patrol can continue its vital national security mission to prevent illegal migration, trafficking, and protect the borders of the United States.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C.D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Karen Shields,

Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2018–20295 Filed 9–14–18; 11:15 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity

AGENCY: Office of Planning, Research, and Evaluation; ACF; HHS.

ACTION: Request for public comment.

Title: Evaluation of Employment Coaching for TANF and Related Populations—Second Follow-Up Survey (OMB #0970–0506).

SUMMARY: The Administration for Children and Families (ACF) is proposing an additional data collection activity as part of the Evaluation of Employment Coaching for TANF and Related Populations. The Office of Management and Budget (OMB) Office of Information and Regulatory Affairs approved this information collection in March 2018 (0970–0506). ACF is proposing a second follow-up survey conducted as part of the evaluation.

This study will provide an opportunity to learn more about the potential of coaching to help clients achieve self-sufficiency and other desired employment-related outcomes. It will take place over five years in the following employment programs: MyGoals for Employment Success in Baltimore, MyGoals for Employment Success in Houston, Family Development and Self-Sufficiency program in Iowa, LIFT in New York City, Chicago, and Los Angeles; Work Success in Utah; and Goal4 It! in Jefferson County, Colorado. Together, these programs will include Temporary Assistance for Needy Families (TANF) agencies and other public or private employment programs that serve low-income individuals. Each site will have a robust coaching component and the capacity to conduct a rigorous impact evaluation. This study will provide information on whether coaching helps people obtain and retain jobs, advance in their careers, move toward self-sufficiency, and improve their overall well-being. To meet these objectives, this study includes an impact and implementation study, as approved by OMB.

This submission builds on the existing impact study, which randomly assigned participants to either a ''program group,'' who were paired with a coach, or to a ''control group,'' who were not paired with a coach. The effectiveness of the coaching will be determined by differences between members of the program and control groups in outcomes such as obtaining and retaining employment, earnings, measures of self-sufficiency, and measures of self-regulation.

The proposed information collection activity is a second follow-up survey, which will be available to participants approximately 21 months after random assignment. The second follow-up survey will provide rigorous evidence on whether the coaching interventions are effective, for whom, and under what circumstances.

Respondents: Individuals enrolled in the Evaluation of Employment Coaching for TANF and Related Populations. All participants will be able to opt out of participating in the data collection activities.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Second follow-up survey	4,800	1,600	1	1	1,600

Estimated Total Annual Burden Hours: 1,600.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 413 of the Social Security Act, as amended by the FY 2017 Consolidated Appropriations Act, 2017 (Pub. L. 115–31).

Emily B. Jabbour,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–20223 Filed 9–17–18; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–7022]

Post-Marketing Pediatric-Focused Product Safety Reviews; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) has established a public docket to collect comments related to the post-marketing, pediatric-focused safety reviews of products posted between April 2, 2018, and September 14, 2018, on FDA's website but not presented at the September 20, 2018, Pediatric Advisory Committee (PAC) meeting. These reviews are intended to be available for review and comment by members of the PAC, interested parties (such as academic researchers, regulated industries, consortia, and patient groups), and the general public.

DATES: Submit either electronic or written comments by September 28, 2018.

ADDRESSES: FDA has established a docket for public comment on this document. The docket number is FDA–2017–N–7022. The docket will close on September 28, 2018. Submit either electronic or written comments by that date. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 28, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of September 28, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to make available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–7022 for ''Post-Marketing Pediatric-Focused Product Safety Reviews; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9

a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenneth Quinto, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5145, Silver Spring, MD 20993, 240–402–2221, *kenneth.quinto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation. FDA also has responsibility for regulating the manufacturing, marketing, and distribution of tobacco products to protect the public health and to reduce tobacco use by minors.

FDA has established a public docket, Docket No. FDA–2017–N–7022, to receive input on post-marketing pediatric-focused safety reviews of products posted between April 2, 2018, and September 14, 2018, available on FDA's website at *https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/PediatricAdvisoryCommittee/ucm510701.htm* but not presented at the September 20, 2018, PAC meeting. FDA welcomes comments by members of the PAC, as mandated by the Best Pharmaceuticals for Children Act (Pub. L. 107–109) and the Pediatric Research Equity Act of 2003 (Pub. L. 108–155), interested parties (such as academic researchers, regulated industries, consortia, and patient groups), and the general public. The docket number is FDA–2017–N–7022. The docket will open for comments on September 17, 2018, and remain open until September 28, 2018. The post-marketing pediatric-focused safety reviews are for the following products from the following centers at FDA:

Center for Biologics Evaluation and Research

1. BEXSERO (Meningococcal Group B Vaccine)
2. QUADRACEL (Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine)

Center for Drug Evaluation and Research

1. ADZENYS XR–ODT (amphetamine tablet) and DYANAVEL XR (amphetamine suspension)
2. ANTHIM (obiltoxaximab)
3. APTENSIO XR (methylphenidate hydrochloride) and QUILLICHEW ER (methylphenidate hydrochloride)
4. BANZEL (rufinamide)
5. CINQAIR (reslizumab)
6. CUTIVATE (fluticasone propionate)
7. DESCOVY (emtricitabine and tenofovir alafenamide)
8. ENTOCORT EC (budesonide)
9. EPIVIR (lamivudine)
10. EPZICOM (abacavir sulfate and lamivudine) and ZIAGEN (abacavir sulfate)
11. KALETRA (lopinavir and ritonavir)
12. KOVANAZE (tetracaine hydrochloride and oxymetazoline hydrochloride)
13. LAMICTAL (lamotrigine)
14. NATROBA (spinosad)
15. NOXAFIL (posaconazole)
16. ORALTAG (iohexol)
17. ORAVERSE (phentolamine mesylate)
18. OTOVEL (ciprofloxacin and fluocinolone acetonide)
19. PANCREAZE (pancrelipase) and PERTZYE (pancrelipase)
20. PRILOSEC (omeprazole)
21. PROAIR RESPICLICK (abuterol sulfate)
22. PROCYSBI (cysteamine bitartrate)
23. RENVELA (sevelamer carbonate)
24. SPIRIVA (tiotropium bromide)
25. TEFLARO (ceftaroline fosamil)
26. TETRACAINE HYDROCHLORIDE Ophthalmic Solution (tetracaine hydrochloride)
27. XOPENEX (levalbuterol)
28. ZOMIG Nasal Spray (zolmitriptan)

Center for Devices and Radiological Health

1. CONTEGRA PULMONARY VALVED CONDUIT (Humanitarian Device Exemption (HDE))
2. ELANA SURGICAL KIT (HDE)
3. ENTERRA THERAPY SYSTEM (HDE)
4. LIPOSORBER LA–15 SYSTEM (HDE)
5. MEDTRONIC ACTIVA DYSTONIA THERAPY (HDE)
6. PLEXIMMUNE (HDE)
7. PULSERIDER ANEURYSM NECK RECONSTRUCTION DEVICE (HDE)

Dated: September 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–20214 Filed 9–17–18; 8:45 a.m.]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3159]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Endocrinologic and Metabolic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on October 24 and 25, 2018, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31

Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–3159. The docket will close on October 23, 2018. Submit either electronic or written comments on this public meeting by October 23, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 23, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 23, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before October 10, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3159 for ''Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION: *Agenda:* On both days, the committee will discuss the ''Guidance for Industry: Diabetes Mellitus—Evaluating Cardiovascular Risk in New Antidiabetic Therapies to Treat Type 2 Diabetes'' (*https://www.fda.gov/downloads/Drugs/Guidances/ucm071627.pdf*), and the cardiovascular risk assessment of drugs and biologics for the treatment of type 2 diabetes mellitus.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before October 10, 2018, will be provided to

the committee. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 10:30 a.m. on October 25, 2018. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 1, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 2, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 13, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–20233 Filed 9–17–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC)/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT) has scheduled a public meeting. Information about the CHACHSPT can be found here: *https://www.cdc.gov/maso/facm/facmchachspt.html.* An agenda may be requested by emailing *CHACAdvisoryComm@hrsa.gov.*

DATES: November 7, 2018, 8:30 a.m.–5:00 p.m. ET and November 8, 2018, 8:30 a.m.–3:30 p.m. ET.

ADDRESSES: This meeting will be held in-person and by webinar and teleconference. The address for the meeting is DoubleTree by Hilton, Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

- *Adobe Connect URL link: https://hrsa.connectsolutions.com/chac_meeting/.*
- *Conference call-in number:* 888–324–9617, Passcode 9245865.

FOR FURTHER INFORMATION CONTACT: Theresa Jumento, Chief, Policy Development Branch, HRSA, HIV/AIDS Bureau (HAB), Division of Policy and Data, 5600 Fishers Lane, Room 9N156, or by email at *CHACAdvisoryComm@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The CHACHSPT was established under Section 222 of the Public Health Service (PHS) Act, [42 U.S.C. Section 217a], as amended.

The purpose of the CHACHSPT is to advise the Secretary of HHS, the Director of the CDC, and the Administrator of HRSA on the objectives, strategies, policies, and priorities for HIV, viral hepatitis, and other STD prevention and treatment efforts. This includes, but is not limited to, surveillance of HIV infection, viral hepatitis, and other STDs; responses to related emerging health needs; and epidemiologic, behavioral, health services, and laboratory research on HIV/AIDS, viral hepatitis, and other STDs. The CHACHSPT also provides advice regarding policy issues related to HIV/viral hepatitis/STD professional education, patient healthcare delivery, research and training, and prevention services.

During the November 7–8, 2018, meeting, the CHACHSPT will discuss the following topics:

- CHACHSPT workgroup reports and findings;
- updates from CDC, HRSA, and HRSA HAB;
- strategies for serving women, infants, children, and youth;
- agencies' responses to the opioid crisis; and
- telemedicine initiatives.

Agenda items are subject to change as priorities dictate. Refer to the CHACHSPT website for any updated information concerning the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to CHACHSPT should be sent by email to *CHACAdvisoryComm@hrsa.gov* or by mail to Theresa Jumento at the address above at least 3 business days prior to the meeting.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Theresa Jumento at the address listed above at least 10 business days prior to the meeting.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–20269 Filed 9–17–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Advisory Council on Migrant Health

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Meeting notice.

SUMMARY: The Secretary's National Advisory Council on Migrant Health (NACMH) has scheduled a public meeting. Information about NACMH and the agenda for this meeting can be found on the NACMH website at: *https://bphc.hrsa.gov/qualityimprovement/strategicpartnerships/nacmh/index.html.*

DATES: November 14, 2018, 8:30 a.m.–5:00 p.m. ET and November 15, 2018, 9:00 a.m.–5:00 p.m. ET.

ADDRESSES: This meeting will be held in person only at the Bethesda Marriott Suites. The address for the meeting is 6711 Democracy Boulevard, Bethesda, Maryland 20817. Phone: 301–897–5600.

FOR FURTHER INFORMATION CONTACT: Esther Paul, Designated Federal Officer (DFO) NACMH, HRSA, Office of Policy and Program Development, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, 16N38B, Rockville, Maryland 20857; 301–594–4300; or *epaul@hrsa.gov.*

SUPPLEMENTARY INFORMATION: NACMH provides advice and recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning the activities under Section 330(g) of the Public Health Service (PHS) Act (42 U.S.C. 254b). Pursuant to 42 U.S.C. 218, NACMH advises, consults with, and makes recommendations to the Secretary of HHS regarding the organization, operation, selection, and funding of migrant health centers and other entities funded under Section 330(g) of the PHS Act (42 U.S.C. 254b).

During the November 14 through 15, 2018, meeting, NACMH will discuss its general business activities. The Council will also hear presentations from federal officials and experts on issues facing agricultural workers, including the status of agricultural worker health at the local and national levels. Topics addressed at this meeting include:

I. Patient Engagement Strategies;
II. Recruitment and Retention of Health Care Providers;
III. Human Trafficking in Agriculture; and
IV. Health Literacy.

Agenda items are subject to change as priorities dictate. Refer to the NACMH website for any updated information concerning the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to NACMH should be sent to Esther Paul, DFO, using the contact information above at least 3 business days prior to the meeting.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Esther Paul at the address and phone number listed above at least 10 business days prior to the meeting.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–20268 Filed 9–17–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Program Project Grant P01.

Date: October 17–18, 2018.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ana Olariu, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Ana.olariu@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: October 22–23, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, Washington, DC 20037.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 402–0288, *natalia.strunnikova@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN eTeamBCP Integrated U01 Review.

Date: October 26, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy., Arlington, VA 22202.

Contact Person: Ernest W. Lyons, Ph.D., Chief, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative—Postdoctoral Career Transition Award to Promote Diversity (K99/R00).

Date: October 26, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Alexandrian, 480 King Street, Alexandria, VA 22314.

Contact Person: Elizabeth A. Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–1917, *webbere@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20267 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Solarium Conference Room 9S233, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 12, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20261 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Hearing and Balance Application Review.

Date: October 11, 2018.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301–496–8683, *yangshi@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemical Senses Fellowships Review.

Date: October 12, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD (U01) Clinical Trial Review.

Date: October 23, 2018.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Voice, Speech, and Language Fellowships Review.

Date: October 26, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20260 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Brain Review Meeting.

Date: September 27–28, 2018.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Ruth L. Kirschstein National Research Service Award (NRSA) Institutional Research Training Grant (T32) Program.

Date: November 14–15, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Elizabeth A. Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., SUITE 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–1917, *webbere@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20263 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NCATS Conference Grants.

Date: October 9, 2018.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1037, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Christine A. Livingston, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, (301) 435–1348, *livingsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: *September 12, 2018.*

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20264 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: October 22–23, 2018.

Open: October 22, 2018, 8:30 a.m. to 8:50 a.m.

Agenda: Reports from the institute staff.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room 610, Building 35A Convent Drive Bethesda, MD 20892.

Closed: October 22, 2018, 8:50 a.m. to 5:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room 610, Building 35A Convent Drive Bethesda, MD 20892.

Closed: October 23, 2018, 8:30 a.m. to 1:55 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Room 610, Building 35A Convent Drive Bethesda, MD 20892.

Contact Person: Andrew J. Griffith, Ph.D., MD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 35A Convent Drive, GF 103 Rockville, MD 20892, 301–496–1960, *griffita@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/groups/bsc/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20266 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–B Conflicts.

Date: October 16, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch,

DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; High Impact, Interdisciplinary Science in NIDDK Research Areas (RC2 A1).

Date: October 23, 2018.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20817, 301–496–9010, *hoffertj@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–042: Ancillary Studies to Major Ongoing Clinical Research Studies (R01).

Date: October 29, 2018.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 12, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20265 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Kidney Molecular Biology and Genitourinary Organ Development.

Date: October 11, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Ganesan Ramesh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182 MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–451–0996, *ybi@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Skeletal Biology Structure and Regeneration.

Date: October 12, 2018.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Rajiv Kumar, Ph.D., IRG Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.

Date: October 15, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–806–2515, *chatterm@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular Aspects of Diabetes and Obesity Study Section.

Date: October 16–17, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW,Washington, DC 20036.

Contact Person: Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: October 16–17, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

Date: October 16, 2018.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Marriott Washington, DC Downtown, 1199 Vermont Ave. NW, Washington, DC 20005, DC 20005.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiac Contractility, Hypertrophy, and Failure Study Section.

Date: October 17–18, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Blood-Brain Barrier, Neurovascular System and CNS Therapeutics.

Date: October 17, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Career Development and Pathway to Independence Award in Tobacco Regulatory Research.

Date: October 17, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 12, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–20262 Filed 9–17–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Boating Safety Advisory Council and its Subcommittees will meet to discuss issues relating to recreational boating safety. These meetings will be open to the public.

DATES:

Meetings. The National Boating Safety Advisory Council will meet on Thursday, October 18, 2018, from 9 a.m. to 5 p.m. and on Saturday, October 20, 2018 from 8:30 a.m. to 10:30 a.m. The Boats and Associated Equipment Subcommittee will meet on Friday, October 19, 2018, from 8 a.m. to 10 a.m. The Prevention through People Subcommittee will meet on Friday, October 19, 2018, from 10:15 a.m. to 2:45 p.m. The Recreational Boating Safety Strategic Planning Subcommittee will meet on Friday, October 19, 2018, from 3 p.m. to 5 p.m. Please note that these meetings may conclude early if the National Boating Safety Advisory Council has completed all business.

Comments and supporting documentation. To ensure your comments are reviewed by Council members before the meetings, submit your written comments no later than October 12, 2018.

ADDRESSES: All meetings will be held at the U.S. Coast Guard Training Center Cape May, 1 Munro Avenue, Cape May, NJ 08204 in Building 252, Classroom 12. Access to Training Center Cape May is restricted. Individuals interested in attending the meeting need to pre-register using the following information:

Pre-registration Information: Foreign nationals participating will be required to pre-register no later than October 1, 2018, to be admitted to the meeting. U.S. citizens participating will be required to pre-register no later than October 12, 2018, to be admitted to the meeting. To pre-register, contact Mr. Jeff Ludwig, (202) 372–1061, *NBSAC@uscg.mil* with National Boating Safety Advisory Council in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country citizenship, passport country, country of residence, place of birth as well as your passport number and expiration date. All attendees will be required to provide a REAL ID Act-compliant government-issued picture identification card in order to gain admittance to the Coast Guard base where the meeting will be held. For more information on REAL–ID and to check the compliance status of your state/territory please see *https://www.dhs.gov/real-id* and *https://www.dhs.gov/real-id-public-faqs.*

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

Instructions: You are free to submit comments at any times, including orally at the meetings, but if you want Council members to review your comment before the meetings, please submit your comments no later than October 1, 2018. We are particularly interested in the comments in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and the docket number USCG–2010–0164. Written comments may also be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.*

If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. For more about privacy and the docket, review the Privacy and Security Notice for the Federal Docket Management System at *https://www.regulations.gov/privacyNotice.*

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov* insert USCG–2010–0164 in the ''Search'' box, press Enter, then click the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Alternate Designated Federal Officer of the National Boating Safety Advisory Council, telephone (202) 372–1061, or at *NBSAC@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act* (Title 5, U.S.C. Appendix). Congress established the National Boating Safety Advisory Council in the *Federal Boat Safety Act of 1971* (Pub. L. 92–75). The National Boating Safety Advisory Council currently operates under the authority of 46 U.S.C. 13110 and 46 U.S.C. 4302(c). The latter requires the Secretary of Homeland Security and the Commandant of the U.S. Coast Guard by delegation to consult with the National Boating Safety Advisory Council in prescribing regulations for recreational vessels and associated equipment and on other major safety matters.

Agenda

Day 1

The agenda for the National Boating Safety Advisory Council meeting is as follows:

Thursday, October 18, 2018

(1) Opening remarks.

(2) Presentation of Awards to Outgoing National Boating Safety Advisory Council Members.

(3) Receipt and discussion of the following reports:

(a) Chief, Office of Auxiliary and Boating Safety, update on the U.S. Coast Guard's implementation of National Boating Safety Advisory Council Recommendations and Recreational Boating Safety Program Report.

(b) Alternate Designated Federal Officer's report concerning Council administrative and logistical matters.

(c) Update on the implementation of the National Recreational Boating Survey.

(d) Update on the National Recreational Boating Grant Program.

(4) Presentation on voluntary life jacket wear efforts.

(5) Presentation(s) on Boating under the Influence (BUI) reduction efforts.

(6) Public comment period.

(7) Meeting Recess.

Day 2

Friday, October 19, 2018

The day will be dedicated to Subcommittee sessions:

(1) *Boats and Associated Equipment Subcommittee.*

Issues to be discussed include alternatives to pyrotechnic visual distress signals; grant projects related to boats and associated equipment; and updates to 33 CFR 181 ''Manufacturer Requirements'' and 33 CFR 183 ''Boats and Associated Equipment.''

(2) *Prevention Through People Subcommittee.*

Issues to be discussed include paddlesports participation, overview of State boating Safety programs, and licensing requirements for on-water boating safety instruction providers.

(3) *Recreational Boating Safety Strategic Planning Subcommittee.*

Issues to be discussed include progress on implementation of the 2017–2021 Strategic Plan.

Day 3

Saturday, October 20, 2018

The full Council will resume meeting.

(1) Receipt and Discussion of the Boats and Associated Equipment, Prevention through People and Recreational Boating Safety Strategic Planning Subcommittee reports.

(2) Discussion of any recommendations to be made to the U.S. Coast Guard.

(3) Public comment period.

(4) Voting on any recommendations to be made to the U.S. Coast Guard.

(5) Closing remarks.

(6) Adjournment of meeting.

There will be a comment period for the National Boating Safety Advisory Council members and a comment period for the public after each report presentation, but before each is voted on by the Council. The Council members will review the information presented on each issue, deliberate on any recommendations presented in the Subcommittees' reports, and formulate recommendations for the Department's consideration.

The meeting agenda and all meeting documentation can be found at: *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/nbsac/announcements.* Alternatively, you may contact Mr. Jeff Ludwig as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meeting as the Council discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: September 10, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2018–20127 Filed 9–17–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4386–DR; Docket ID FEMA–2018–0001]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4386–DR), dated August 20, 2018, and related determinations.

DATES: The declaration was issued August 20, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 20, 2018, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Iowa resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of June 6 to July 2, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy J. Scranton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Iowa have been designated as adversely affected by this major disaster:

Adair, Buchanan, Buena Vista, Cerro Gordo, Cherokee, Chickasaw, Clay, Dallas, Delaware, Dickinson, Emmet, Floyd, Hamilton, Hancock, Howard, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Sioux, Story, Warren, Webster, Winnebago, Winneshiek, and Wright Counties for Public Assistance.

All areas within the State of Iowa are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–20258 Filed 9–17–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendments in the State of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The State of Oklahoma entered into compact amendments with the Comanche Nation governing certain forms of class III gaming; this notice announces the approval of the State of Oklahoma Gaming Compact Non-house-Banked Table Games Supplement between the State of Oklahoma and the Comanche Nation.

DATES: The compact amendments take effect on September 18, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The compact amendments authorize the Tribes to engage in certain additional class III gaming activities, provide for the application of existing revenue sharing agreements to the additional forms of class III gaming, and designate how the State will distribute revenue sharing funds.

Dated: August 24, 2018.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2018–20187 Filed 9–17–18; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Semiconductor Lithography Systems and Components Thereof, DN 3341;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of ASML Netherlands B.V.; ASML US, L.P.; and ASML US, LLC on September 12, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor lithography systems and components thereof. The complaint names as respondents: Nikon Corporation of Japan; Nikon Precision Inc. of Belmont, CA; and Nikon Research Corporation of America of Belmont, CA. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's

Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3341'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 13, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–20236 Filed 9–17–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1057]

Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts; Commission Determination To Review a Final Initial Determination in Part; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding; Extension of the Target Date

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the presiding administrative law judge's final initial determination, finding a violation of section 337 of the Tariff Act of 1930, as amended with respect to U.S. Patent Nos. 8,600,553 and 9,038,233 and no violation with respect to U.S. Patent Nos. 6,809,490 and 8,474,090. The Commission has also determined to extend the target date for completion of the above-captioned investigation until November 20, 2018. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on May 23, 2017, based on a complaint filed by iRobot Corporation of Bedford, Massachusetts (''iRobot''). 82 FR 23592 (May 23, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,809,490 (''the '490 patent''); 7,155,308 (''the '308 patent''); 8,474,090 (''the '090 patent''); 8,600,553 (''the '553 patent''); 9,038,233 (''the '233 patent''); and 9,486,924 (''the '924 patent''). The complaint names as respondents Bissell Homecare, Inc. of Grand Rapids, Michigan (''Bissell''); Hoover, Inc. of Glenwillow, Ohio and Royal Appliance Manufacturing Co., Inc. d/b/a TTI Floor Care North America, Inc. of Glenwillow, Ohio (collectively, ''Hoover''); bObsweep, Inc. of Toronto, Canada and bObsweep USA of Henderson, Nevada (collectively, ''bObsweep''); The Black & Decker Corporation of Towson, Maryland and Black & Decker (U.S.) Inc. of Towson, Maryland (collectively, ''Black & Decker''); Shenzhen ZhiYi Technology Co., Ltd., d/b/a iLife of Shenzhen, China (''iLife''); Matsutek Enterprises Co., Ltd. of Taipei City, Taiwan (''Matsutek''); Suzhou Real Power Electric Appliance Co., Ltd. of Suzhou, China (''Suzhou''); and Shenzhen Silver Star Intelligent Technology Co., Ltd. of Shenzhen, China (''SSSIT''). The Office of Unfair Import Investigations is not a party in this investigation.

The investigation has been terminated with respect to respondents Suzhou, Black & Decker, Bissell, and Matsutek. Notice (Oct. 18, 2017) (determining not to review Order No. 23 (Sept. 26, 2017)); Notice (Jan. 31, 2018) (determining not to review Order No. 31 (Jan. 9, 2018)); Notice (Feb. 16, 2018) (determining not to review Order No. 34 (Jan. 25, 2018)). The '924 and the '308 patents are also no longer part of the investigation. Notice (Jan. 16, 2018) (determining not to review Order No. 29 (Dec. 14, 2017)); Notice (Mar. 15, 2018) (determining not to review Order No. 40 (Feb. 21, 2018)).

On July 16, 2018, the Commission determined that iRobot satisfied the economic prong of the domestic industry requirement under 19 U.S.C. 1337(a)(3)(B). Notice (July 16, 2018) (determining to affirm with

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*

modifications Order No. 39 (Feb. 13, 2018)).

On June 25, 2018, the presiding administrative law judge (''ALJ'') issued a final initial determination (''ID''), finding a violation of section 337 with respect to the '553 and '233 patents and no violation with respect to the '490 and '090 patents. Specifically, with respect to the '553 patent, the ALJ found that: (1) iLife directly infringes claim 42, but not claims 1, 12, 13, and 22; (2) iLife has not induced or contributed to infringement of the patent; (3) iRobot has satisfied the technical prong of the domestic industry requirement; (4) claim 1, but not claims 11 and 12, is invalid for anticipation; and (5) claims 4, 12, 13, and 22 are not invalid for obviousness. With respect to the '490 patent, the ALJ found that: (1) iLife and bObsweep directly infringe claim 42, but not claims 1 and 12, and Hoover directly infringes claim 42; (2) iLife, Hoover, bObsweep, and SSSIT have not induced or contributed to infringement of the patent; (3) iRobot has satisfied the technical prong of the domestic industry requirement; (4) claim 1, but not claim 12, is invalid for anticipation; (5) claims 12 and 42 are invalid for obviousness; and (6) claims 1 and 42 are not invalid for indefiniteness. With respect to the '090 patent, the ALJ found that: (1) iLife, Hoover, SSSIT and bObsweep directly infringe claims 1, 2, 3, 5, 7, 10, and 17; (2) iLife, Hoover, bObsweep, and SSSIT have not induced or contributed to infringement of the patent; (3) iRobot has satisfied the technical prong of the domestic industry requirement; (4) claims 1, 5, 7, 10, and 17 are not invalid for anticipation; and (5) claims 1, 2, 3, 4, 5, 7, 10, and 17 are invalid for obviousness in view of certain prior art combinations, but not others. With respect to the '233 patent, the ALJ found that: (1) iLife and bObsweep directly infringe claims 1, 10, 11, 14, 15, and 16 and Hoover directly infringes the same claims with respect to the Hoover Quest 1000 products, but not the Hoover Rogue/Y1 and Hoover Y2 products; (2) iLife, Hoover, bObsweep, and SSSIT have not induced or contributed to infringement of the patent; (3) iRobot has satisfied the technical prong of the domestic industry requirement; and (4) claims 1, 10, 11, 14, 15, and 16 of the '233 patent are not invalid for anticipation, obviousness, nor lack of written description.

The ALJ also issued a Recommended Determination on Remedy and Bond (''RD''), recommending, if the Commission finds a section 337 violation, the issuance of (1) a limited exclusion order against certain robotic vacuum cleaning devices and components thereof that are imported, sold for importation, and/or sold after importation by Hoover, bObsweep, SSSIT, and iLife, (2) cease and desist orders against Hoover and iLife, and (3) imposition of a bond of 18.89 percent for iLife products, 48.65 percent for bObsweep products, and 41.35 percent for Hoover products that are imported during the period of Presidential review.

On July 25, 2018, iRobot filed post-RD statements on the public interest under Commission Rule 210.50(a)(4). The Commission did not receive any post-RD public interest comments from Respondents pursuant to Commission Rule 210.50(a)(4). The Commission did not receive comments from the public in response to the Commission notice issued on July 10, 2018. 83 FR 31977 (July 10, 2018).

On July 9, 2018, iRobot and Respondents each filed a petition for review challenging various findings in the final ID. On July 17, 2018, iRobot and Respondents each filed responses to the other party's petition for review.

Having examined the record of this investigation, including the final ID, the Commission has determined to review in part the ALJ's determination of a section 337 violation. Specifically, the Commission has determined to review the ALJ's findings on: (1) Induced and contributory infringement with respect to the '553, '490, '090, and '233 patents; (2) anticipation with respect to the asserted claims of the '553 patent; (3) obviousness with respect to the asserted claims of the '553 patent; (4) direct infringement of the '090 patent by Respondents; (5) anticipation with respect to the asserted claims of the '090 patent; (6) obviousness with respect to the asserted claims of the '090 patent; (7) anticipation with respect to the asserted claims of the '233 patent; and (8) consideration of U.S. Patent No. 6,594,844 as prior art under 35 U.S.C. 102(a) and concerning obviousness under 35 U.S.C. 103.

The Commission has determined not to review the remaining issues decided in the final ID.

The Commission has also determined to extend the target date for completion of the investigation until November 20, 2018.

In connection with its review, the Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

1. Before the ALJ, did Respondents assert invalidity of claims 1 and 12 of the '553 patent under 35 U.S.C. 102(b) based on a theory that the invention was ''described in a printed publication'' or that the invention was ''in public use''? *See* ID at 57.

2. What is the theory under section 102(b) (*i.e.,* ''described in a printed publication'' or ''in public use'') addressed by the final ID to find claim 1 of the '553 patent invalid as anticipated by Suckmaster and to find claim 12 not invalid as anticipated by Suckmaster? *See* ID at 57–70.

3. Assuming Respondents argued before the ALJ invalidity of claim 12 of the '553 patent based on ''public use'' under section 102(b):

a. Does there need to be a showing that the Suckmaster robot was used in public to practice the steps of claim 12 to find anticipation of that claim based on a public use theory?

b. Does the record evidence show that the Suckmaster robot performed the steps of claim 12 during the Atlanta Hobby Robot Club Vacuum Contest?

4. Describe the principle of operation of U.S. Patent No. 5,995,884 (''Allen'') and discuss whether modifying Allen with a ''control module'' as required by the asserted claims of the '090 patent would change that principle of operation.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondents Hoover and iLife being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994), Comm'n Opinion.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are

subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on all of the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant is also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported, and provide identification information for all known importers of the subject articles. Initial written submissions and proposed remedial orders must be filed no later than close of business on Monday, September 24, 2018. Reply submissions must be filed no later than the close of business on Monday, October 1, 2018. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (Inv. No. 337–TA–1057) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 12, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–20189 Filed 9–17–18; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0012]

Temporary Labor Camps; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA is soliciting public comments concerning the proposal to extend OMB approval of the information collection requirements contained in the Temporary Labor Camps Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by November 19, 2018.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0012, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2012–0012) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Christie Garner at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Tom Mockler or Christie Garner, Directorate

of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining said information (29 U.S.C. 657).

OSHA is requesting approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in the Temporary Labor Camps Standard (29 CFR 1910.142). The main purpose of these provisions is to eliminate the incidence of communicable disease among temporary labor camp residents. The Standard requires camp superintendents to report immediately to the local health officer the name and address of any individual in the camp known to have, or suspected of having, a communicable disease (29 CFR 1910.142)(l)(1). Whenever there is a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom, the standard requires the camp superintendent to report said illness immediately to the health authority (29 CFR 1910.142)(l)(2). In addition, the Standard requires separate toilet rooms to be provided for each sex where the toilet rooms are shared. These rooms must be marked ''for men'' and ''for women'' by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols (29 CFR 1910.142(d)(4)).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- the accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- the quality, utility, and clarity of the information collected; and
- ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Temporary Labor Camps Standard (29 CFR 1910.142). The Agency is requesting an adjustment in the number of burden hours from 155 hours to 258 hours. There was an increase in the number of ''incidents of notifiable diseases'' from 1,933 cases to 2,349.

The agency will summarize any comments submitted in response to this notice and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Temporary Labor Camps (29 CFR 1910.142).

OMB Control Number: 1218–0096.

Affected Public: Businesses or other for-profits.

Number of Respondents: 2,349.

Frequency of Responses: On occasion.

Total Number of Responses: 270,000.

Average Time per Response: Time per response is 5 minutes (.08 hour) to report each incident to local public health authorities.

Estimated Total Burden Hours: 258 hours.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2012–0012). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 12, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor, Occupational Safety and Health.

[FR Doc. 2018–20201 Filed 9–17–18; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for International Science and Engineering Meeting (AC–ISE) (#25104).

Date and Time: Monday, October 29, 2018; 9:00 a.m. to 4:45 p.m. (EDT), Tuesday, October 30, 2018; 9:00 a.m. to 1:00 p.m. (EDT).

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

To help facilitate your entry into the NSF building, please contact Victoria Fung (*vfung@nsf.gov*) on or prior to October 24, 2018.

Type of Meeting: Open.

Contact Person: Simona Gilbert, AC–ISE Executive Secretary and Staff Associate for Budget, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia, 22314; Telephone: 703–292–8710.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to international programs and activities.

Agenda

- Updates on OISE activities
- Discussion on International Strategic Plan Working Group
- Updates on MULTIplying Impact Leveraging International Expertise in Research (MULTIPLIER)
- Updates on IRES Evaluation
- Discussion on International Strategic Plan
- Meet with NSF leadership

Dated: September 12, 2018.

Crystal Robinson

Committee Management Officer.

[FR Doc. 2018–20170 Filed 9–17–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72–58 and 50–263; NRC–2018–0207]

Xcel Energy, Monticello Nuclear Generating Plant; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request submitted by Xcel Energy on October 18, 2017, from meeting Technical Specification (TS) 1.2.5 of Attachment A of Certificate of Compliance (CoC) No. 1004, Amendment No. 10, which requires that all dry shielded canister (DSC) closure welds, except those subjected to full volumetric inspection, be dye penetrant tested in accordance with the requirements of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (B&PV) Code Section III, Division 1, Article NB–5000. This exemption applies to five loaded Standardized NUHOMS® 61BTH, Dry Shielded Canisters (DSCs) 11 through 15, at the Monticello Nuclear Generating Plant (MNGP) Independent Spent Fuel Storage Installation (ISFSI).

ADDRESSES: Please refer to Docket ID NRC–2018–0207 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–2018–0207. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) 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: Christian Jacobs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6825; email: *Christian.Jacobs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Northern States Power Company-Minnesota, doing business as Xcel Energy (Xcel Energy, or the applicant) is the holder of Renewed Facility Operating License No. DPR–22, which authorizes operation of the MNGP, Unit No. 1, in Wright County, Minnesota, pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

Consistent with 10 CFR part 72, subpart K, ''General License for Storage of Spent Fuel at Power Reactor Sites,'' a general license is issued for the storage of spent fuel in an ISFSI at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50. The applicant is authorized to operate a nuclear power reactor under 10 CFR part 50, and holds a 10 CFR part 72 general license for storage of spent fuel at the MNGP ISFSI. Under the terms of the general license, the applicant stores spent fuel at its ISFSI using the TN Americas LLC Standardized NUHOMS® dry cask storage system in accordance with CoC No. 1004, Amendments No. 9 and No. 10. As part of the dry storage system, the DSC (of which the closure welds are an integral part) ensures that the dry storage system can meet the functions of criticality safety, confinement boundary, shielding, structural support, and heat transfer.

II. Request/Action

The applicant has requested an exemption from the requirements of 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 10 CFR 72.212(b)(5)(i), 10 CFR 72.212(b)(11), and 10 CFR 72.214 that require compliance with the terms, conditions, and specifications of CoC No. 1004, Amendment No. 10, for the Standardized NUHOMS® Horizontal Modular Storage System, to allow continued storage of DSCs 11–15 in their respective Horizontal Storage Modules (HSMs). This would permit the continued storage of those five DSCs for the service life of the canisters. Specifically, the exemption would relieve the applicant from meeting TS 1.2.5 of Attachment A of CoC No. 1004 (ADAMS Accession No. ML17338A114),

which requires that all DSC closure welds, except those subjected to full volumetric inspection, be dye penetrant tested in accordance with the requirements of the ASME B&PV Code Section III, Division 1, Article NB–5000. Technical Specification 1.2.5 further requires that the dye penetrant test (PT) acceptance standards be those described in Subsection NB–5350 of the ASME BP&V Code.

Xcel Energy loaded spent nuclear fuel into six 61BTH DSCs starting in September 2013. Subsequent to the loading, it was discovered that certain elements of the PT examinations, which were performed on the DSCs to verify the acceptability of the closure welds, do not comply with the requirements of TS 1.2.5. All six DSCs were affected. Five of the six DSCs (numbers 11–15) had already been loaded in the HSMs when the discrepancies were discovered. DSC 16 remained on the reactor building refueling floor in a transfer cask (TC). On June 8, 2016, NRC granted an exemption (ADAMS Accession No. ML16159A227) from 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 10 CFR 72.212(b)(5)(i), 10 CFR 72.212(b)(11), and 10 CFR 72.214 for DSC 16 only with regard to meeting TS 1.2.5 of Attachment A of CoC No.1004, Amendment No. 10. The exemption granted on June 8, 2016, restored DSC 16 to compliance with 10 CFR part 72 and allowed Northern States Power Company-Minnesota to transfer DSC 16 into an HSM for continued storage at MNGP ISFSI for the service life of the canister.

In a letter dated October 18, 2017 (ADAMS Accession No. ML17296A205) (Exemption Request), as supplemented in responses to NRC requests for additional information dated April 5, 2018 (ADAMS Accession No. ML18100A173) (RAI Response 1) and May 31, 2018 (ADAMS Accession No. ML18151A870) (RAI Response 2), the applicant requested an exemption from the following requirements to allow continued storage of the remaining DSCs 11–15 in their respective HSMs at the MNGP ISFSI:

- 10 CFR 72.212(a)(2), which states that this general license is limited to storage of spent fuel in casks approved under the provisions of part 72;
- 10 CFR 72.212(b)(3), which states that the general licensee must ensure that each cask used by the general licensee conforms to the terms, conditions, and specifications of a CoC or an amended CoC listed in 10 CFR 72.214;
- 10 CFR 72.212(b)(5)(i), which requires that the general licensee perform written evaluations, before use and before applying the changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC, which establish that the cask, once loaded with spent fuel or once the changes authorized by an amended CoC have been applied, will conform to the terms, conditions, and specifications of a CoC or an amended CoC listed in 10 CFR 72.214;
- 10 CFR 72.212(b)(11), which states, in part, that the licensee shall comply with the terms, conditions, and specifications of the CoC and, for those casks to which the licensee has applied the changes of an amended CoC, the terms, conditions, and specifications of the amended CoC; and
- 10 CFR 72.214, which lists the approved spent fuel storage casks.

III. Discussion

Pursuant to 10 CFR 72.7, the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Authorized by Law

This exemption would permit the continued storage of DSCs 11–15 at the MNGP ISFSI for the service life of the canisters by relieving the applicant of the requirement to meet the PT requirements of TS 1.2.5 of Attachment A of CoC No. 1004. The provisions in 10 CFR part 72 from which the applicant is requesting exemption require the licensee to comply with the terms, conditions, and specifications of the CoC for the approved cask model it uses. Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. As explained below, the proposed exemption will not endanger life or property, or the common defense and security, and is otherwise in the public interest. Issuance of this exemption is consistent with the Atomic Energy Act of 1954, as amended, and not otherwise inconsistent with NRC's regulations or other applicable laws. Therefore, the exemption is authorized by law.

Will Not Endanger Life or Property or the Common Defense and Security

This exemption would relieve the applicant from meeting TS 1.2.5 of Attachment A of CoC No. 1004, which requires PT examinations to be performed on the DSCs to verify the acceptability of the closure welds, and would permit the continued storage of DSCs 11–15 in their respective HSMs at the MNGP ISFSI for the service life of the canisters. As detailed below, NRC staff reviewed the exemption request to determine whether granting of the exemption would cause potential for danger to life, property, or common defense and security.

Review of the Requested Exemption

The NUHOMS® system provides horizontal dry storage of canisterized spent fuel assemblies in an HSM. The cask storage system components for NUHOMS® consist of a reinforced concrete HSM and a DSC vessel with an internal basket assembly that holds the spent fuel assemblies. The HSM is a low-profile, reinforced concrete structure designed to withstand all normal condition loads, as well as abnormal condition loads created by natural phenomena such as earthquakes and tornadoes. It is also designed to withstand design basis accident conditions. The Standardized NUHOMS® Horizontal Modular Storage System has been approved for storage of spent fuel under the conditions of CoC No. 1004. The DSCs under consideration for exemption were loaded under CoC No. 1004, Amendment No. 10.

The NRC has previously approved the Standardized NUHOMS® Horizontal Modular Storage System. The requested exemption does not change the fundamental design, components, contents, or safety features of the storage system. The NRC staff has evaluated the applicable potential safety impacts of granting the exemption to assess the potential for danger to life or property or the common defense and security; the evaluation and resulting conclusions are presented below. The potential impacts identified for this exemption request were in the areas of materials, structural integrity, thermal, shielding, criticality, and confinement capability.

Materials Review for the Requested Exemption: The applicant asserted that there is a reasonable assurance of safety to grant the requested exemption to continue the storage of DSCs 11–15 in their respective HSMs. The applicant's assertion of reasonable assurance of safety is based on the following factors:

- Reasonable assurance of weld integrity;
- Low dose consequences for a DSC in storage; and
- Low risk to the public.

The applicant further stated that there is reasonable assurance of weld integrity based on the existing Quality Assurance (QA) documentation, engineering analysis, and expert evaluations, which demonstrate that the subject DSC welds

possess sufficient quality to perform their design functions due to the following:

- Fuel cladding integrity is maintained, as no damaged fuel was loaded and no unexpected dose readings were observed during drying operations.
- The weld design assures that there are no pinhole leaks and there is no credible process for service-induced flaws.
- The material, including the DSC shell, lids and weld filler, met quality requirements and quality welds were ensured by welding process qualification, welder qualification and the use of an automated welding process specifically designed for the application.
- In-process visual inspections of welds performed by the welders, Quality Control (QC) visual examination (VT) inspections of fit-ups and welds, and the vacuum hold, helium pressure and helium leak test all ensured confinement and quality of the welds.
- Strain margins for the DSC welds were demonstrated by structural analysis assuming flaw distributions conservatively derived from the Phased Array Ultrasonic Testing (PAUT) examination of DSC 16.
- Based on the DSCs 11–15 site-specific heat load conditions, additional margin exists to account for any remaining flaw uncertainty.

The NRC materials review for the requested exemption focused on the applicant's assertion of reasonable assurance of weld integrity and each of the supporting assertions of: (1) Fuel cladding integrity; (2) weld design; (3) material and welding process; (4) tests performed; (5) adequate strain margins to accommodate flaws; and (6) additional strain margins in welds. A specific review of each of the supporting statements is provided in the following sections.

Fuel Cladding Integrity: The applicant provided information on the nature of the spent nuclear fuel in DSCs 11–15 to demonstrate that the fuel cladding fission product barrier is intact and any postulated canister weld leak would have an insignificant effect on radioactive release. At the time of loading in 2013, the applicant stated that the combined decay heat load in the limiting DSC did not exceed 10.96 kilowatts. In addition, only one of the 305 loaded fuel assemblies was considered to be high burnup, with a maximum recorded burnup of 45.12 gigawatt days per metric ton of uranium (GWD/MTU) (in DSC 15). The applicant stated that cask loading reports and supporting radiochemistry records indicate that all of the fuel assemblies loaded into DSCs 11–15 met the TS requirements (TS Table 1–1t) for cladding integrity and no damaged fuel was loaded. The applicant stated that the integrity of the fuel was further demonstrated by the fact that no unexpected dose rate readings were observed during the vacuum drying processes of DSCs 11–15.

The NRC staff reviewed the information provided by the applicant on the characteristics of the spent fuel loaded in DSCs 11–15. The NRC staff also reviewed the loading records for the loading campaign and confirmed that (1) no damaged fuel assemblies were loaded in the DSCs; (2) only one fuel assembly had burnup that marginally exceeded the 45 GWD/MTU criterion for high burnup fuel however, the cladding of the fuel assembly was shown to be intact through cask loading reports and supporting radiochemistry reports; and (3) no unexpected dose readings were observed in the loading campaign. Based on the review of the information from the loading campaign, the NRC staff confirmed that the characteristics of the fuel loaded in the DSCs included in the exemption request were accurately described.

Weld Design: The applicant stated that the updated final safety analysis report (UFSAR) only describes weld failure in terms of a possible pinhole leak in individual weld layers. The applicant further stated that the UFSAR assumes or stipulates that pinholes may exist in individual layers but the UFSAR makes no explicit mention about how a pinhole leak in a weld layer is formed, whether it occurs during the weld formation or by subsequent canister loading operations, fatigue cycles during storage, or accidents. The applicant stated that the existence of pinhole leaks is a non-mechanistic assumption of the UFSAR; and there is no underlying malfunction that causes its formation.

The applicant stated that, once in storage, there is no credible failure mechanism of the DSC top cover plate closure welds that would adversely affect DSC confinement because (1) the top cover plate and weld material are stainless steel and the only welds subject to the outside environment are the outer layer of the outer top cover plate (OTCP) weld and the test port plug (TPP) weld; (2) a reduction in cross section from plastic strain is not applicable to the top cover plate welds because the differential pressure across the top cover plates conditions is minimal (less than one atmosphere); and (3) the mechanism of cyclic loading is not applicable to the top cover plate and closure welds because the extent of fatigue cycling experienced by the canister is below the threshold which the ASME B&PV Code Section III has established.

The NRC staff have previously reviewed the design of the NUHOMS® 61BTH DSC included in the UFSAR. The NRC staff verified that the top cover plate and weld material are stainless steel and the only welds subject to the outside environment are the outer layer of the OTCP weld and the TPP weld. The NRC staff verified that the differential pressure across the top cover plates is minimal and consequently the reduction in cross section from plastic strain is not credible. The NRC staff have reviewed the assessment of fatigue and determined that the DSCs are not subjected to cyclic loading that requires a fatigue analysis. Based on the NRC staff's previous analysis of the DSC weld design, the NRC staff determined that the applicant's assessment of the weld design is accurate and there is no credible mechanism for the propagation of an existing weld flaw to result in a through weld thickness penetration that would result in a leak.

Material and Welding Process: The applicant stated that procurement records such as certified material test reports (CMTRs) demonstrate that the canisters, lids, and weld filler materials met design standards and quality requirements, thereby assuring compatibility between materials and satisfactory material performance characteristics (*e.g.,* material strength).

The applicant stated that the weld closures of DSCs 11–15 were performed under a 10 CFR part 50 Appendix B QA program, such that the canister integrity is assured. The applicant stated that welding materials were procured to quality requirements, welding processes were developed and qualified for the given configuration, and welders were appropriately qualified to the ASME B&PV Code requirements. Finally, the applicant stated that welding parameters were specified in associated procedures and monitored as required.

In addition to the original weld head video review conducted in conjunction with the DSC 16 exemption request, the applicant included another examination of the weld head video and the general area videos taken during the 2013 cask loading campaign. Based on the examination of the videos, the applicant made a correlation between weld techniques and typical weld flaw characteristics such as those identified in the PAUT of the inner top cover plate (ITCP) and OTCP welds from DSC 16. The applicant provided an assessment conducted by Structural Integrity

Associates, Inc. (SIA), which concluded that defects would be limited in the through thickness dimension to the thickness of a single bead. The applicant also stated that, even considering the possibility that any given layer of weld may have a leak through that layer, the licensing basis criterion stated in the UFSAR Section 3.3.2.1 assures that the chance of pinholes being in alignment on successive independently-deposited weld layers is not credible.

As stated above, the NRC staff have previously reviewed the design of the NUHOMS® 61BTH DSC included in the UFSAR. The NRC staff reviewed the materials used in the construction of DSCs 11–15 and the NRC staff confirmed that the materials used met the specifications called out in the NUHOMS® 61BTH DSC design. The NRC staff reviewed the CMTRs and confirmed that the materials met specified compositional and mechanical property requirements.

The NRC staff reviewed, ''TRIVIS Inc. Welding Procedure Specification (WPS) SS–8–M–TN, Revision 10,'' (Enclosure 2 to RAI Response 1) which was used for the machine welding of the ITCP and the OTCP as well as, ''TRIVIS Inc. WPS SS–8–A–TN, Revision 8,'' (RAI Response 1 Enclosure 3) used for manual welding of the ITCP and the OTCP. The NRC staff compared WPS SS–8–M–TN, Revision 10 and WPS SS–8–A–TN, Revision 8 to the essential variables required for the gas tungsten arc welding (GTAW) in ASME Section IX Part QW Welding, Article II Welding Procedure Qualifications, Table QW–256 and Article IV Welding Data, Subsection QW–400 Variables. The NRC staff determined that the WPS SS–8–M–TN, Revision 10 and WPS SS–8–A–TN, Revision 8 are acceptable because all of the essential variables identified in ASME Section IX for GTAW WPSs were included and the range of permissible values were specified.

The NRC staff reviewed, ''TRIVIS, Inc. Procedure Qualification Record (PQR) PQR–1, Revision 2'' (Enclosure 4 to RAI Response 1). The NRC staff compared the testing documented in PQR–1, Revision 2 against ASME Section IX Part QW Welding, Article I Welding General Requirements. The NRC staff determined that PQR–1 Revision 2 was acceptable because all the testing necessary to qualify WPS SS–8–M–TN, Revision 10 and WPS SS–8–A–TN, Revision 8 were performed with satisfactory results and documented in PQR–1, Revision 2.

As documented in NUREG–1536, Revision 1, Section 8.9.1 (ADAMS Accession No. ML101040620) the NRC previously determined that for a multipass lid-to-shell weld of an austenitic stainless steel canister designed and fabricated in accordance with the ASME B&PV Code Section III Subsection NB (Class 1 components), no flaws of significant size will exist such that the flaws could impair the structural strength or confinement capability of the weld. For a spent nuclear fuel canister, such a flaw would be the result of improper fabrication or welding technique, as service-induced flaws under normal and off-normal conditions of storage are not credible.

The NRC staff notes that per the guidance in NUREG–1536, Revision 1, Section 8.4.7.4, the large structural lid-to-shell weld designs fabricated from austenitic materials may be tested using non-destructive examination methods such as a volumetric ultrasonic test (UT) or a multi-pass PT. If a multiple-pass PT examination is utilized in lieu of UT inspection, a stress reduction factor of 0.8 for weld strength is imposed. In the absence of valid PT examinations of the closure welds for DSCs 11–15, the applicant asserted that the helium leak rate tests performed on all DSCs and the PAUT results for DSC 16, which show that weld defects are limited to the height of one weld bead, support the claim that DSCs 11–15 do not have flaws that would impair the structural strength or confinement capability.

The NRC staff reviewed the information provided by the applicant including the DSC lid-to-shell closure weld design for the ITCP and the OTCP, the manual and machine GTAW WPSs, the helium leak testing results for DSCs 11–15 and the PAUT results for DSC 16. The NRC staff concluded that the design of the DSC closure weld and the GTAW WPSs used to weld the ITCP and the OTCP are unlikely to result in weld flaws that could impair the structural strength or confinement capability of the weld. The NRC staff concluded that the helium leak testing results for DSCs 11–15 confirmed that there were no flaws that impaired the confinement capability of the DSC 11–15 ITCP welds. The NRC staff concluded that the PAUT results for DSC 16 is sufficient to show that the GTAW of the ITCP and OTCP welds do not result in defects that would impair structural strength or confinement capability of the DSC closure welds.

Tests Performed: The applicant stated that a number of independent tests were conducted on the DSC 11–15 welds which verify that adequate welds were performed on DSCs 11–15. The applicant stated that these tests include:

- In-process visual examination and QC visual examinations to demonstrate that weld processes were followed and a weld meeting visual examination criteria was developed; and
- Helium leakage tests to verify the confinement integrity function and, to some extent, the structural integrity function of the DSC welds.

The applicant provided an extent of condition assessment as Appendix D of Enclosure 1 of the Exemption Request. The applicant stated that the extent of condition assessment was focused on:

- Compliance with welding administrative requirements;
- Technical specification required testing of welds; and
- Weld depth measurements for outer top cover plate welds.

The NRC staff reviewed the information provided in the application and confirmed that the applicant provided documentation that the welding administrative requirements were met, as follows: (1) Welding procedures were available at the job site for welding operators to follow; (2) weld surface preparations were completed such that the weld surface was dry and free of oil, grease, weld spatter, rust, slag, sand, discontinuities, or other extraneous material; (3) weld crown height for the ITCP and vent/siphon port were verified; and (4) welds for the ITCP, OTCP and the vent and siphon ports were all verified.

The NRC staff reviewed the information provided in the application and confirmed that the applicant provided documentation for the TS required tests performed on DSCs 11–15. The NRC staff verified that the application included documentation showing that (1) hydrogen monitoring was properly performed while welding in accordance with TS 1.1.11; (2) pressure testing of the DSC shell to ITCP weld was conducted in accordance with TS 1.1.12.4; (3) two cycles of vacuum drying and verification were conducted at a vacuum less than 2.8 torr and were maintained for times longer than 30 minutes in accordance with TS 1.2.2; (4) the DSCs were backfilled with helium and to a pressure of 17.2 ± 1.0 psi for a time of at least 30 minutes in accordance with TS 1.2.3a; and (5) helium backfilling, pressure verification and leak testing were conducted in accordance with American National Standards Institute (ANSI) N14.5–1997 and leak rates less than 1.0×10^{-7} ref cubic centimeters/sec were documented for DSCs 11–15 in accordance with TS 1.2.4a.

The NRC staff confirmed that the weld depth measurements for the OTCP were conducted at four locations around the weld circumference. The NRC staff confirmed that the weld depth (dimension of the weld throat)

measurements met the minimum requirements of 0.5 inches for the OTCP weld for DSCs 11–15.

Based on the review of the information provided by the applicant, the NRC staff determined that the required tests were performed on the ITCP and OTCP welds including in-process visual inspections of welds performed by the welders, VT of fit-ups and welds and the vacuum hold, as well as helium pressure and helium leak testing. The NRC staff determined that the applicant completed an adequate extent of condition assessment which showed that the welding of the ITCP and OTCP were conducted in accordance with welding administrative requirements, the required testing of welds were in compliance with technical specifications, and weld depth measurements for the OTCP met design requirements for the 61BTH DSC.
Adequate Strain Margins to Accommodate Flaws (Exemption Request Enclosures 2 through 5): The applicant stated that strain margins for DSCs 11–15 were demonstrated by structural analysis using theoretically-bounding full-circumferential flaws and a structural analysis assuming flaw distributions conservatively derived from the PAUT examination of DSC 16. The applicant supported the analysis using:

- A review of weld head video for all available DSCs, general area video for all available DSCs, and welding records;
- the allowable flaw size evaluation in the ITCP closure weld for DSC 16; and
- the ITCP and OTCP closure weld flaw evaluation for a 61BTH DSC based on the DSC 16 PAUT results.

Based on the review of the videos, welding records and the PAUT examination of DSC 16, the applicant determined that the indications found on DSC 16 are representative of those that may be found on DSCs 11–15. Consequently, the applicant determined that the same bounding analyses performed for DSC 16 should provide for similar conservative results for the closure welds for DSCs 11–15. The applicant stated that for the OTCP, the original design basis calculations determined critical flaw sizes. The applicant stated that these design basis analyses determined for a 360° circumferential flaw, an allowable flaw depth of 0.19 inch and 0.29 inch could exist for surface connected and sub-surface flaws respectively. Finally, the applicant stated that the flaw sizes determined by these calculations bound any of the indications found on DSC 16 by PAUT of the OTCP weld.

For the ITCP weld of DSC 16, the applicant provided a calculation, AREVA Calculation 11042–0204, Revision 3, ''Allowable Flaw Size Evaluation in the Inner Top Cover Plate Closure Weld for DSC #16'' (Exemption Request Enclosure 4) that documents the critical flaw size based on the maximum radial stresses in the welds due to design loads. The applicant's analysis calculated the critical flaw size for a weld size of 0.25 inch per the PAUT results for DSC 16, which showed that the distance between the weld root and crown at the canister wall for the DSC 16 ITCP lid weld ranged from 0.25 inch to 0.4 inch. The applicant determined that the critical flaw depth was 0.15 inch, which would exceed the typical weld layer thickness. The applicant noted that the measured weld size for the ITCP weld on DSC 16 was significantly larger than the design thickness of 3/16 inch (*i.e.,* 0.188''). The applicant stated that all analyses for DSCs 11–15 were conducted using the design thickness of the weld. The applicant provided an analysis of the allowable flaw size for the DSC ITCP and OTCP using the weld design thickness which used the flaw sizes from the PAUT examination of DSC–16 (Exemption Request Enclosure 5, AREVA Calculation 11042–0205, Revision 3, ''61BTH ITCP and OTCP Closure Weld Flaw Evaluation'').

The applicant stated that, as part of the original extent of condition review, weld head videos were reviewed by SIA in 2014. For DSCs 13 and 16, the review included video recordings of the ITCP root and cover weld layers and the OTCP tack, root, intermediate and cover weld layers. For DSCs 12, 14 and 15, the review included video recordings of the OTCP tack, root, intermediate and cover weld layers. The applicant stated that no weld head video was available for DSC 11. The DSC 16 outer closure weld was concluded to be the most vulnerable to potential defects because a greater frequency of irregular surface conditions was generated during welding.

The applicant stated that SIA performed further reviews of available weld head videos along with general area videos, welding records, and PAUT results for DSC 16 to identify any correlations between the welding processes used during the 2013 loading campaign and the flaws identified by the PAUT. The applicant stated that, by correlating indications to the particular welding methods used on all six canisters (including DSCs 11–15), a reasonable case was made that the types of indications found on DSC 16 are representative of those that may be found on DSCs 11–15.

For the OTCP, the applicant stated SIA concluded that the defects located within the weld deposit of DSC 16 are believed to be inter-bead lack of fusion formed at the interface between adjacent weld bead surfaces. The applicant stated that when the defects are present in the DSC OTCP closure weld, they would be found at the interfaces between weld beads. The applicant included a schematic showing the DSC OTCP weld bead placement and the position of the lack-of-fusion flaws, which were characterized as parallel and offset. The applicant stated that the possible locations where lack of fusion between the sides of adjacent weld beads could form in the DSC OTCP closure weld would result in defects that are not aligned and which would not extend beyond the thickness of one weld pass layer.

For the ITCP, the applicant stated SIA concluded that the locations of the flaws in DSC 16 indicate that they were related to sidewall lack of fusion. SIA also noted that the weld joint geometry, welding system, and welding setup for the ITCP of DSCs 11–15 had potential for forming defects on the sidewall like those identified in DSC 16. The applicant stated that, from the review, SIA concluded the other five canister ITCP closure welds were welded in a similar manner, using similar welding procedures, equipment, welding process, filler material, and welding operators and thus, it is reasonable to assume the other canister ITCP welds will have similar intermittent defects. In addition, the applicant stated that the vertical weld wall of the weld groove is inherent to a single bevel design, and because there is limited room to tilt the tungsten electrode towards the side wall (DSC shell), any lack-of-fusion defects that might form would likely be located on the vertical sidewall. The applicant concluded that the assumptions made for the ITCP closure weld bounding analysis in DSC 16 were considered reasonable for all ITCP canister closure welds.

The NRC staff reviewed the applicant's summary of the weld head video and general area videos. The NRC staff also reviewed the applicant's supporting analyses including:

- AREVA Calculation 11042–0204, Revision 3, ''Allowable Flaw Size Evaluation in the Inner Top Cover Plate Closure Weld for DSC #16'' (Exemption Request Enclosure 4);
- AREVA Calculation 11042–0205, Revision 3, ''61BTH ITCP and OTCP Closure Weld Flaw Evaluation'' (Exemption Request Enclosure 5);

- Structural Integrity Associates, Inc. Report 700388.401, Revision 1, ''Evaluation of the Welds on DSC 11–15'' (Exemption Request Enclosure 3);
- Structural Integrity Associates Inc. Report 1301415.403, Revision 2, ''Assessment of Monticello Spent Fuel Canister Closure Plate Welds Based on Welding Video Records'' dated May 22, 2014 (RAI Response 1 Enclosure 8);
- Structural Integrity Associates Inc. Report 1301415.402, Revision 0, ''Review of TRIVIS Inc. Welding Procedures used for Field Welds on The Transnuclear NUHOMS® 61BTH Type 1 & 2 Transportable Canister for BWR Fuel'' (RAI Response 1 Enclosure 9); and
- RAI Response 2.

The NRC staff determined that, because the same welding process, welding equipment, and welding procedures were used by the personnel that conducted the ITCP and OTCP welds in DSCs 11–16, it is reasonable to conclude, based on engineering judgement that the types of defects in DSC 16 are representative of those that may be in DSCs 11–15. The NRC staff determined that, because the DSCs 11–16 are the same design, were fabricated to the same specifications, and were subjected to the same tests, the analysis conducted for DSC 16 is also applicable to DSCs 11–15.

The NRC staff reviewed the applicant's analysis for the OTCP welds and the description of the OTCP welding based on weld head video described in Exemption Request Enclosure 3, Structural Integrity Associates, Inc. Report 700388.401, Revision 1, ''Evaluation of the Welds on DSC 11–15,'' Appendix B, ''Outer Top Cover Plate Closure Weld Bead Sequence (Based on VID Observations)'' and Appendix C, ''Tabulated Review of Available VIDS for Monticello DSC–12 thru DSC–16.'' The NRC staff also reviewed the information included from the review of the general area video records included in Appendix D of Exemption Request Enclosure 3, ''Monticello DSC Video Inspection.'' The NRC staff determined that due to the OTCP weld joint design and welding process used in the OTCP closure weld, the likely significant welding defects in the OTCP weld would be lack of fusion between the weld beads or at the interface of the OTCP weld and the OTCP or the interface of the OTCP weld and the DSC shell. Given the geometry of the weld joint, the number of welding passes required to fill the weld joint, the position of each welding pass, and the requirement for in-process visual inspection of the weld after each pass, the NRC staff determined that it is unlikely that a connected lack-of-fusion defect greater than the thickness of one pass would be present. The NRC staff determined that any lack-of-fusion defects in the OTCP would not be aligned because of the weld joint geometry and the positioning of the weld passes required to fill the OTCP weld joint.

With respect to the ITCP welds, the NRC staff reviewed the applicant's analysis for the ITCP welds and the description of the ITCP welding based on weld head video described in Exemption Request Enclosure 3, Structural Integrity Associates, Inc. Report 700388.401, Revision 1, ''Evaluation of the Welds on DSC 11–15.'' The NRC staff also reviewed the following appendices to Exemption Request Enclosure 3: Appendix A, ''Inner Top Cover Plate Closure Weld Bead Sequence (Based on VID Observations)''; Appendix C, ''Tabulated Review of Available VIDS for Monticello DSC–12 through DSC–16''; and Appendix D ''Monticello DSC Video Inspection.''

The NRC staff notes that it is unclear whether some of the observations in Exemption Request Enclosure 3, Appendix C were in conformance with Procedure 12751–MNGP–OPS–01, Revision 0, ''Spent Fuel Cask Welding: 61BT/BTH NUHOMS® Canisters'' (RAI Response 1 Enclosure 6). In particular, the NRC staff note that Exemption Request Enclosure 3, Appendix C indicated there were two instances of blow through of the root pass on the OTCP weld of DSC–12. Procedure 12751–MNGP–OPS–01, Revision 0 states such an event would be treated as a major repair with additional NDE and documentation. However, in RAI Response 2, the applicant indicated that these events were weld craters and were not weld root blow through events. While NRC staff was not able to resolve whether these actions taken by the welder were in conformance with the applicable procedure, it was apparent from Exemption Request Enclosure 3, Appendix C that corrective actions were taken to address the weld defects. In addition, the NRC staff determined that either a blow through of the root pass or a weld crater is a localized defect that would, in the worst case, compromise a small length of the root pass. As such, the NRC staff determined that the reported observation of a possible root blow through in two locations is bound by the assumed size of the OTCP welds defects in the flaw evaluation.

The NRC staff determined that for the ITCP weld joint design the likely significant welding defects would be lack of fusion at the interface of the ITCP weld and the ITCP or the interface of the ITCP weld and the DSC shell. Given the geometry of the weld joint, the number of welding passes required to fill the weld joint, the position of each welding pass, and the requirement for in-process visual inspection of the weld after each pass, the NRC staff determined that lack of fusion between the ITCP weld and the DSC shell is likely to be the most significant type of weld defect in this joint. The NRC staff determined that the positioning of the welding electrode necessary to weld the root pass would minimize the chances of a lack-of-fusion defect located at the interface of the ITCP weld and the ITCP. The NRC staff determined that the positioning of the welding electrode necessary to weld the second fill pass would minimize the chances of a lack-of-fusion defect at the interface of the ITCP weld and the DSC shell.

Based on the review of the information provided by the applicant including the review of weld head video for all available DSCs, general area video for all available DSCs, and welding records; the allowable flaw size evaluation in the ITCP closure weld for DSC 16; and the ITCP and OTCP closure weld flaw evaluation for a 61BTH DSC based on the DSC 16 PAUT results, the NRC staff concludes that the applicant has adequately considered the sizes and location of potential weld flaws to evaluate the stress margins in the ITCP and OTCP welds of DSCs 11–15. The NRC staff structural review for the requested exemption follows the materials review.

Additional Strain Margins in Welds (Exemption Request Enclosures 6 through 9): The applicant stated that additional analysis was performed to maximize the size of flaws present in locations consistent with the results of the DSC 16 PAUT to demonstrate substantial margin to account for potential flaw uncertainties. In addition, the applicant stated that DSCs 11–15 site-specific heat load conditions were applied to demonstrate additional weld margin exists and is available to account for any remaining flaw uncertainty. The applicant stated that the analysis used design basis loads with flaws present in locations consistent with the DSC 16 PAUT results and maximized in size such that the weld flaws approach acceptable design limits.

The applicant stated that the two maximum modeled weld flaws for OTCP to DSC shell weld are 0.43 inch and 0.42 inch in height, which represents about 85% through-wall of the 0.5-inch minimum weld throat. The applicant stated that the maximum modeled full-circumferential weld flaws

for ITCP to DSC shell weld are 0.11 inch in height at the ITCP weld to the ITCP interface and 0.14 inch in height at the ITCP weld to DSC shell interface, which represent respectively 58% and 74% through-wall of the 0.19-inch minimum weld throat. The applicant stated that each of the four assumed flaws represent defects spreading over more than one weld bead.

The NRC staff reviewed the applicant's analysis for the ITCP and OTCP weld flaws along with the applicant's summary of the welding video recordings and the PAUT examination results for DSC 16. For the ITCP weld, the NRC staff assessed the geometry of the weld joint, the positioning of the welding electrode in both the root and the final fill pass along with the requirement for in-process visual inspection of the weld after each pass. For the OTCP weld, the NRC staff assessed the geometry of the weld joint, the number of welding passes required to fill the weld joint, the position of each welding pass, along with the requirement for in-process visual inspection of the weld after each pass. The NRC staff determined that any lack-of-fusion defects in the ITCP and OTCP would not be aligned and would not result in a defect greater than the thickness of one pass given the weld joint geometry and the positioning of the weld passes required to fill the ITCP and OTCP weld joints. Thus, the NRC staff determined that the flaws assessed in Exemption Request Enclosure 6 are both unlikely to occur in any of the DSCs loaded in the 2013 campaign and the flaws assessed in Exemption Request Enclosure 6 conservatively bound any possible welding defects that are likely to exist in the DSC 11–15 OTCP welds.

Based on the review of the information provided by the applicant including the analysis of flaws analyzed from the PAUT examination of the ITCP and OTCP welds of DSC 16 and the assumed maximized flaws that exceed the weld bead deposit thickness, the NRC staff concludes that the applicant's analysis of stress margins in the ITCP and OTCP welds of DSCs 11–15 conservatively assumed weld flaws that are much larger than would be reasonably expected. This is due to the combination of the materials of construction, weld joint designs, and the welding process used for the ITCP and OTCP welds.

Structural Review for the Requested Exemption: The exemption request states that there is a reasonable assurance of safety to grant the requested exemption to continue the storage of DSCs in their respective HSMs. As noted by the applicant, one of the many factors contributing to this assertion is the structural integrity of the DSC top cover plates-to-shell closure welds. The *Structural Review* is based on the conclusion of the *Materials Review* where the NRC staff determined among other findings that, because the DSCs 11–16 are of the same design, were fabricated to the same specifications, and were subjected to the same tests, the analyses conducted for DSC 16 may also be applied to DSCs 11–15.

For the DSC 11–15 closure weld structural functions assessment, which was done by analysis, the applicant noted that the previous evaluations to demonstrate adequate strain margins of safety of the DSC 16 closure welds also support the current exemption request. These evaluations were provided in the following reports:

- SIA Report 1301415.301, Revision 0, ''Development of an Analysis Based Stress Allowable Reduction Factor (SARF)—Dry Shielded Canister (DSC) Top Closure Weldments'' (Exemption Request Enclosure 2);
- AREVA Calculation 11042–0204, Revision 3, ''Allowable Flaw Size Evaluation in the Inner Top Cover Plate Closure Weld for DSC #16'' (Exemption Request Enclosure 4); and
- AREVA Calculation 11042–0205, Revision 3, ''61BTH ITCP and OTCP Closure Weld Flaw Evaluation'' (Exemption Request Enclosure 5).

The evaluations performed on the DSC 16 closure welds included: (1) A structural analysis using an analysis-based stress allowance reduction factor and theoretically-bounding full-circumferential flaws to demonstrate that finite element analysis (FEA) simulation is suitable for analyzing the structural performance of the weld as a continuum with multiple embedded flaws; (2) a calculation that documents the allowable critical flaw size in the ITCP closure weld based on the maximum design basis radial stresses in the welds; and (3) a structural analysis demonstrating large weld strain margins of safety with conservative assumptions of flaw distribution and size derived from the DSC 16 PAUT examination results.

However, to demonstrate adequate strain margin and to accommodate flaws in the DSCs 11–15 closure welds, the applicant provides a FEA simulation evaluation in SIA Report, 700388.401, Revision 1, ''Evaluation of the Welds on DSCs 11–15,'' (Exemption Request Enclosure 3) to support that the flaw distribution and size based on the PAUT examination results for the DSC 16 closure weld performance can be used to conservatively represent the closure weld flaws for DSCs 11–15. As noted in the *Materials Review,* the NRC staff reviewed the applicant's evaluation and determined that the flaws used in analyzing the DSC 16 closure welds are a reasonable representation for the closure welds for all DSCs 11–16. This finding provides the basis for the NRC staff to review the two calculation packages: Calculations 11042–0207 and 11042–0208, which used the maximized weld flaws that are essentially the same in distribution but are much larger in size than those used for the DSC 16 evaluation.

Specifically, in Calculation 11042–0207, the applicant asserts that there are adequate strain margins in the welds to accommodate flaws for DSCs 11–15. The DSCs are subject to the design basis temperature, pressure, and side-drop loading conditions and are analyzed per the ASME Code Section III criteria, using the limit load and elastic-plastic analyses. In Calculation 11042–0208, the applicant asserts additional strain margin in the DSCs 11–15 closure welds. The maximum flaws, the analysis methodology and the evaluation criteria are the same as those of Calculation 11042–0207. However, in lieu of the design basis loading, the analysis used the as-loaded DSC cavity pressure, which is site-specific and temperature dependent. The at-temperature material yield strengths are used, which are higher than those associated with the design basis loading.

It is noted that the exemption request also included Calculation 11042–0209 (Exemption Request Enclosure 8) to demonstrate additional weld strain margin for DSCs 11–15 subject to the site-specific side-drop loading condition. The NRC staff neither approves, nor rejects, and is not expressing any view related to the material in the calculation, as it did not enter into the NRC evaluation.

The NRC staff reviewed the above two calculation reports on the structural performance of the DSC 11–15 closure welds. In Calculation 11042–0207, the applicant followed the same analysis method used in Calculation 11042–0205 for DSC 16 to demonstrate adequate strain margin in DSCs 11–15 closure welds. The applicant noted that the finite element model details and structural performance acceptance criteria are the same except that the maximized flaw configuration is postulated to result in much larger flaws than those associated with DSC 16 to provide additional insights into the weld structural performance.

To arrive at the maximized configuration, the flaws modeled in

Calculation 11042–0205 for DSC 16 were first modified slightly, including replacing conservatively the 0.11 inch-long flaw inside the ITCP with an equivalent-height flaw at the interface between the ITCP and the 3/16-inch ITCP-to-shell weld. However, the size and location of all other welds were unchanged. Next, an elastic-plastic analysis of flaw length introduced increasingly larger flaw sizes in each analysis iteration to simulate higher localized plastic strain. As noted by the applicant, the iteration analysis was considered complete for the maximized flaws determination for which the peak equivalent plastic strain for the most critically stressed flaws would be calculated to be somewhat below the ASME code weld material elongation limit of 28 percent. The applicant performed the elastic-plastic iteration analysis using a 150-percent design basis side-drop of 112.5 g ($75 \times 1.5 = 112.5$) to arrive at the maximized flaws. Specifically, the maximized, 360° full-circumferential flaws are of 0.43 inch and 0.42 inch in height for the two flaws associated with the OTCP, which represent about 85% through-wall of the 0.5-inch minimum throat for OTCP-to-DSC shell weld. The maximized full-circumferential flaws for ITCP-to-DSC shell weld are 0.11 inch and 0.14 inch each in height, which represent respectively 58% and 74% through-wall of the 0.19-inch minimum weld throat. The NRC staff reviewed the iteration analysis for arriving at the maximized flaws for the DSCs 11–15 closure welds. Because the maximized flaws are essentially the same in locations as those used for DSC 16 and the resulting flaw sizes are much larger than the corresponding ones used for DSC 16, the NRC staff concludes that the postulated maximized flaws are conservative and appropriate for evaluating the strain performance of the DSCs 11–15 closure welds.

Using the maximized flaws, the applicant performed limit load analyses in Calculation 11042–0207 for two DSC design basis internal pressures of 32 psi and 65 psi for the ASME Code Service Level A/B and Service Level D evaluations, respectively. The analyses resulted in the calculated collapse pressures of 86.3 psi for Service Level A/B and 122.2 psi for Service Level D. The collapse pressures are acceptable because they are greater than the respective ASME Code limit-load analysis acceptance criteria of 60 psi and 90.2 psi. Similarly, for the design basis DSC side-drop of 75 g, the applicant used the 3D half-symmetric model to perform a Service Level D limit load analysis. The applicant determined the side-drop collapse load to be approximately 179.5 g, which includes an off-normal DSC design basis internal pressure of 20 psi as a boundary condition. This determination is acceptable because the collapse load is greater than the required side-drop load of 104 g to satisfy the ASME Code limit-load analysis acceptance criteria.

To address the potential material rupture associated with high plastic strain concentrations at the weld flaws, the applicant performed elastic-plastic analyses in Calculation 11042–0207 to quantify strain margins of safety for the DSCs 11–15 with maximized flaws. This concern was addressed by considering a Ramberg-Osgood idealization of the stress-strain curve for SA–240 Type 301 stainless steel, which recognizes strain hardening effects for the FEA modeling. The elastic-plastic analyses resulted in the peak equivalent plastic strains of 7.4 percent and 11.1 percent for the Service Level D design basis pressure of 65 psi and side-drop of 75 g, respectively. For the strain margin evaluation, the applicant continued to use the same DSC 16 weld strain acceptance criterion of not exceeding the 28 percent elongation limit, which is a reduction from the ASME B&PV Code specified weld elongation limit of 35 percent by a factor of 0.8 ($0.35 \times 0.8 = 0.28$). Considering the 28 percent elongation limit, the strain margins of safety corresponding to the calculated peak equivalent plastic strains are 2.78 $\{(0.28/0.074) - 1 = 2.78\}$ and 1.52 $\{(0.28/0.111) - 1 = 1.52\}$, respectively. Because the margins of safety are all positive (*i.e.*, greater than zero), the NRC staff concludes that there are adequate strain margins in the welds to accommodate flaws for DSCs 11–15.

Additionally, similar to the analysis used to supplement qualification of the DSC 16 closure welds, the applicant considered a 150 percent of the design basis loading to evaluate the DSCs 11–15 welds. The analysis used a DSC internal pressure of 100 psi ($65 \times 1.5 = 97.5 < 100$ psi) and a side-drop of 112.5 g ($75 \times 1.5 = 112.5$ g), which are beyond the ASME B&PV Code, Section III, Paragraph NB–3228.3 Plastic Analysis provisions. The calculated peak equivalent plastic strains are 13.6 percent and 23.0 percent for the respective pressure and side-drop loading cases. For the weld strain margin evaluation, the applicant continued to use the same 28 percent weld elongation limit which resulted in the weld strain margins of safety of 1.06 $\{(0.28/0.0136) - 1 = 1.06\}$ and 0.22 $\{(0.28/0.23) - 1 = 0.22\}$, respectively. Because all margins of safety are positive, even in loading conditions that are 50 percent beyond those required for evaluating localized strains by the elastic-plastic analysis, the NRC staff concludes that there are adequate strain margins on the welds to accommodate flaws for DSCs 11–15.

The applicant noted that there are additional strain margins in the closure welds of DSCs 11–15 owing to the site-specific as-loaded temperature and DSC internal pressure conditions at MNGP, which are less severe than those associated with the design basis conditions. In Calculation 11042–0208 (Exemption Request Enclosure 7), the applicant performed evaluations using the temperature and pressure conditions specific to DSCs 11–15. The evaluation follows the same Calculation 11042–0207 analysis method and acceptance criteria, including the same maximized flaws. The applicant indicated that the evaluations were intended to address any remaining uncertainties related to potential flaws that may be present in DSCs 11–15 by demonstrating existence of additional strain margins in the closure welds.

Using the site-specific 370 °F at-temperature material yield strength of 21.2 ksi for the SA–240 Type 304 stainless steel, the applicant determined the Service Level D limit load collapse pressure is 144.1 psi. This pressure is significantly higher than the DSC at-temperature internal pressure of 45.9 psi and the ASME Code limit-load collapse pressure acceptance criteria of 90.2 psi. Correspondingly, using the site-specific 237 °F at-temperature material yield strength of 24.0 ksi, together with the off-normal at-temperature internal pressure of 10.9 psi as a boundary condition, the applicant determined the collapse side-drop g-load to be 204 g. This site-specific collapse side-drop is also much greater than the ASME Code limit-load collapse side-drop g-load acceptance criteria of 104 g associated with the design basis 500 °F at-temperature material yield strength of 19.4 ksi.

To determine the strain margins of safety for the site-specific temperature and pressure, the applicant performed elastic-plastic analyses for DSCs 11–15 with the maximized flaws in the OTCP- and ITOP-to-shell welds. Using the analysis approach in Calculation 11042–0207, the applicant calculated the peak equivalent plastic strains of 4.4 percent and 9.8 percent for the Service Level D internal pressure of 45.9 psi and the design basis side-drop of 75 g, respectively. For the same weld elongation limit of 28 percent, the corresponding strain margins of safety are calculated to be 5.36 {(0.28/

0.044) − 1 = 5.36} and 1.86 {(0.28/0.098) − 1 = 1.86}. Similar to the analysis used in Calculation 11042–0207 for a supplement qualification of the DSC 16 closure welds with a more conservative loading assumption, the applicant also considered 150 percent of the site-specific loading to evaluate the weld flaws using a DSC internal pressure of 69 psi (45.9 × 1.5 = 69 psi) and side-drop load of 112.5 g. The resulting peak equivalent plastic strains are 7.1 percent and 19.0 percent, which correspond to the strain margins of safety of 2.94 {(0.28/0.071) − 1 = 2.94} and 0.47 {(0.28/0.19) − 1 = 0.47}, respectively. For the MNGP site-specific evaluation, because the margins of safety are all positive, the NRC staff concludes that the DSCs 11–15 weld strains have additional margins beyond the design basis conditions.

On the basis of the review above, the NRC staff concludes that the limit load and elastic-plastic analysis results showed that the welds would undergo localized plastic deformation. The applicant's evaluation indicated that no weld material rupture or breach of the DSCs 11–15 confinement boundary at the closure welds is expected because of the adequate margins of safety against the weld elongation limits. For this reason, the NRC staff has reasonable assurance to conclude that the ITCP and OTCP welds of DSCs 11–15 have adequate structural margins of safety for the ASME Code Service Level D design criteria, which bound the normal, off-normal, and accident (including natural phenomenon) conditions for the subject weld structural integrity evaluation. The NRC staff also finds that the retrievability of DSCs 11–15 is ensured based on the demonstration of adequate weld strain margins of safety discussed above.

Thermal Review for the Requested Exemption: The applicant stated that even though nonconforming examinations exist for the primary confinement welds, satisfactory completion of the required helium leak test conducted on DSCs 11–15 has demonstrated the integrity of the primary confinement boundary (ITCP and siphon/vent cover plate) welds. These tests specifically demonstrated that the primary confinement boundary field welds are ''leak tight'' as defined in ANSI N14.5–1997. The applicant stated that, in this respect, the helium leak test demonstrated the basic integrity of the primary confinement boundary and the lack of a through-weld flaw in the field closure welds that would lead to a loss of cavity helium in DSCs 11–15. The applicant stated that the field closure welds indirectly support the thermal design function by virtue of their confinement function (as demonstrated by the helium leak test conducted on DSCs 11–15) which assures the helium atmosphere in the DSCs 11–15 cavity is maintained in order to support heat transfer. The applicant also stated that the satisfactory completion of two required vacuum pump-downs conducted on the DSCs demonstrated weld integrity of the ITCP confinement boundary. These pump-downs establish a differential pressure across the ITCP and siphon/vent block welds of approximately one atmosphere, which exceeds the magnitude of the 10 psig design pressure used in stress analyses for normal conditions. Although the vacuum pump-down imparts a pressure differential in a reverse direction from the confinement function, according to the applicant, the pump-down demonstrates the basic function of the confinement boundary and the lack of a through-weld flaw in the ITCP and siphon/vent block welds sufficient to cause a loss of cavity helium when in service.

The NRC staff reviewed the applicant's exemption request and also evaluated its effect on DSCs 11–15 thermal performance. The NRC staff concludes that the cask thermal performance is not affected by the exemption request because the applicant has shown that a satisfactory helium leak test was conducted on DSCs 11–15, which is integral to ensuring integrity of the primary confinement boundary. Integrity of the primary confinement boundary assures the spent fuel is stored in a safe inert environment with unaffected heat transfer characteristics that assure peak cladding temperatures remain below allowable limits. The NRC staff also concludes that the applicant demonstrated the lack of a through-weld flaw in the ITCP and siphon/vent block weld sufficient to cause a loss of cavity helium. This satisfies 10 CFR 72.236(f) which requires that the cask be designed to have adequate heat removal capacity without active cooling systems and 10 CFR 72.122(h) which states that the fuel cladding during storage must be protected against degradation and gross rupture. Therefore, based on the NRC staff's review of the applicant's evaluation and technical justification, the NRC staff finds the exemption request acceptable by virtue of the demonstrable structural integrity of the ITCP and siphon/vent plate welds.

The NRC staff finds that the thermal function of DSCs 11–15, loaded under CoC No. 1004, Amendment No. 10, addressed in the exemption request remains in compliance with 10 CFR part 72.

Shielding and Criticality Safety Review for the Requested Exemption: The NRC staff reviewed the criticality safety and radiation protection effectiveness of DSCs 11–15 presented in the applicant's exemption request. The NRC staff finds that the criticality safety and radiation protection of DSCs 11–15 are not affected by the nonconforming PT examinations for the following reasons: (1) The interior of DSCs 11–15 will continue to prevent water in-leakage which means that the system will remain subcritical under all conditions; and (2) the nonconforming PT examinations do not affect the radiation source term of the spent fuel contents, or the configuration and effectiveness of the shielding components of the Standardized NUHOMS® system containing the 61BTH DSC, meaning that the radiation protection performance of the system is not altered.

The NRC staff finds that the criticality safety and shielding function of DSCs 11–15, loaded under CoC No. 1004, Amendment No. 10, addressed in the exemption request remains in compliance with 10 CFR part 72.

Confinement Review for the Requested Exemption: The objective of the confinement evaluation was to confirm that DSCs 11 through 15 loaded at the MNGP met the confinement-related requirements described in 10 CFR part 72. NRC staff relied on the information provided by the applicant in their Exemption Request dated October 18, 2017.

As described in the applicant's ''Exemption Request for Nonconforming Dry Shielded Canister Dye Penetrant Examinations'' (Exemption Request Enclosure 1), certain elements of the DSCs 11–15 closure weld PT examinations did not comply with examination procedures associated with TS 1.2.5. To support the exemption request, the applicant noted that a helium leakage rate test of the closure's confinement boundary, including ITCP weld, siphon cover plate weld, and vent port cover plate weld, were conducted per TS 1.2.4a and demonstrated that the primary confinement barrier field welds met the TS acceptance criterion of leaktight as defined by ANSI N14.5–1997. The applicant noted that the confinement integrity is not affected by the non-compliant PT examination procedures. The NRC staff concludes that not performing the PT examination procedures relevant to this exemption request would not change the results of the helium leakage test, which is integral to ensuring closure confinement

integrity, and therefore, the closure confinement integrity is unaffected. The structural and material acceptability of DSCs 11 through 15 welds is discussed in the *Structural Review* and the *Materials Review* described previously.

It is noted that a dose-related analysis was included as Enclosure 10 of the Exemption Request. NRC staff neither approves, nor rejects, and is not expressing any view related to the material in that enclosure, as it did not enter into the evaluation.

Risk Assessment for the Requested Exemption: In support of the applicant's request, the applicant submitted a risk assessment, Jensen Hughes Report 016045–RPT–01, ''Risk Assessment of MNGP DSCs 11–15 Welds Using NUREG–1864 Methodology'' (Exemption Request Enclosure 11). The risk assessment compares the calculated risk of leaving the five DSCs in storage ''as is'' at the MNGP ISFSI versus transferring the DSCs back into the reactor building to perform PAUT of the welds and then returning them to their storage locations. The risk for each potential accident, regardless of likelihood, can be generally summarized by the following equation:

Initiating Event Frequency (per Year) × Probability of Canister Release × Probability of Containment Release × Consequences (Cancer Fatality) = Risk

The process to transfer a DSC to the reactor building refueling floor for PAUT incurs added potential for accidental drops due to the lifting and subsequent lowering operations. For 20-year storage, the risk is the sum of all potential accident risks for the duration. Each DSC handling operation is independent. For five canisters, the total risk value is multiplied by five.

NUREG–1864, ''A Pilot Probabilistic Risk Assessment of a Dry Cask Storage System at a Nuclear Power Plant'' (ADAMS Accession No. ML071340012) provides guidance for assessing the risk to the public and for identifying the dominant contributors to risk for performing probabilistic risk assessments (PRAs) of a dry cask storage system located at a nuclear power plant site. NUREG–1864 documents a pilot PRA conducted for a dry cask storage system (Holtec International HI–STORM 100) at a Boiling Water Reactor (BWR) Mark 1 plant. The risk assessment estimated the annual off-site risk for one cask in terms of individual probability of a prompt fatality and a latent cancer fatality. It does not consider risk to workers or future off-site transportation of DSCs.

The applicant applied the methodology and results in NUREG–1864 to perform the risk assessment. The risk assessment compared the NUHOMS® and HI–STORM–100 dry spent fuel storage systems and determined the designs are similar with a few basic differences. Both storage systems include canisters for confining dry spent fuel. The canisters have similar design and dimensions and are made of stainless steel of similar thickness and are required to meet the same ASME class (ASME B&PV, Section III, and Subsection NB). The HI–STORM 100 system consists of a multipurpose canister (MPC) that confines spent fuel assemblies, a transfer overpack that provides shielding during canister preparation, and a vertical, cylindrical storage overpack that provides shielding during long-term storage.

Both MNGP and Hatch (the plant selected for the Pilot PRA) are BWR, Mark 1 plants; therefore, the storage systems are exposed to similar handling hazards. The potential drop heights for loaded TCs moving across the refueling floor, or lowering from the height of refueling floor to the ground floor of the equipment hatch are very similar. The potential impact surfaces are also similar.

The NUHOMS® system is comprised of a DSC, a TC, and an HSM. A transfer trailer is used to move the loaded TC. Two key differences exist between the NUHOMS® and the HI–STORM dry spent fuel storage operations. First, the NUHOMS® TC is placed horizontally on the transfer trailer and is not subject to accidental drops when moving between the ISFSI and fuel building. Second, transferring NUHOMS® DSC between the TC and the HSM is done horizontally; thus, the NUHOMS® DSC is not subject to any potential vertical drop. During storage on an ISFSI pad, the horizontal-storage design of the HSM eliminates the risk of tip over caused by seismic activities or wind-driven missiles. Aircraft impact on the HSM is limited to only large aircrafts and the methodology considered the distance to local airfields and planes that operate in the area. The NUREG–1864 frequency estimate for meteorite strikes per unit area is used in this assessment, and the analysis is adjusted for the larger horizontal surface area of the HSM.

In the risk assessment, the potential radiological consequences are based on a comparison of the spent fuel in the MNGP DSC and the spent fuel modeled in NUREG–1864. In NUREG–1864, the HI–STORM 100 MPC contained 68 BWR fuel assemblies with 10-year-old high-burnup (50 GWD/MTU) fuel. The MNGP NUHOMS® DSC contains 61 BWR fuel assemblies with 15.5-year-old fuel of 41 GWD/MTU (not high burnup) fuel. The plume heat content for a cask release is estimated to be that of the spent fuel. NUREG–1864 estimates the maximum decay heat load to be 264 watts per assembly. The estimated maximum decay heat load for MNGP DSC is approximately 220 watts per assembly. The risk assessment analysis assumes that the source term from NUREG–1864 adequately represents or bounds those of the MNGP configuration. The NRC staff agrees that this is reasonable based on the applicant's assessment which shows NUREG–1864 radionuclide inventory is 7.0 times higher than that of MNGP DSC.

The NUREG–1864 evaluation of misload concluded MPC integrity would not be affected unless a gross series of errors occurred. The errors would have to result in nearly every fuel assembly loaded into the MPC being incorrect and insufficiently cooled. NUREG–1864 concluded this gross misload scenario was not credible. Therefore, the risk assessment did not explore risk from misloading of spent fuel.

The applicant's risk assessment assumes the annual risk for a DSC while stored on the ISFSI would be the same for both alternatives. The risk assessment identified three types of mechanical failure that could cause significant radiological releases to the environment: drop accidents, meteorite strikes, and overflight aircraft accidents. The primary difference in risk between the two alternatives, continued storage at the ISFSI versus moving a DSC back to the spent fuel pool area for PAUT, are potential drop accidents during lifting and lowering of a DSC between the ground floor and the height of the refueling floor.

The applicant's risk assessment accounted for possible added risk from a potential flaw around the canister lid by assuming the probability of lid failure would be same as for the DSC shell in drop accidents. This assumption doubles the estimated probability for a release from drop accidents. Strain analysis in NUREG–1864 reports the most highly stressed regions of the MPC for a drop accident are in areas near the base of the cylindrical shell and in the weld joining the shell to the baseplate. Since the top side of a canister is not expected to experience significant strain, the NRC staff agrees that the assumption is conservative and bounds the probability of a release occurring following a drop accident.

The NRC staff reviewed the applicant's risk assessment and agrees

the mechanical failures identified and the radiological inventory from NUREG–1864 would be bounding for each of the MNGP DSCs. The risk assessment concludes that the risks are significantly lower than the level considered ''negligible'' by the Quantitative Health Guidelines (QHG) established in ''Risk-Informed Decisionmaking for Nuclear Material and Waste Applications,'' Revision 1 (ADAMS Accession No. ML080720238). The QHG considers public individual risk of latent cancer fatality risk of less than 2×10^{-6} per year as negligible. The pilot PRA (NUREG–1864) concluded that there is no prompt fatality risk, and the calculated risk is extremely small. NUREG–1864 reports the increase in risk (individual probability of latent cancer fatality) from the first year as 1.8×10^{-12}, and for subsequent years as 3.2×10^{-14} per year per MPC. The total risk for Monticello as calculated by Jensen Hughes took into account the characteristics of the spent fuel and the site, as well as the differences between the MNGP and Hatch ISFSIs. For the five DSCs over a period of 20-year storage, risk would be: Alternative 1, continue storage as-is, Risk = 1.4×10^{-12}; Alternative 2, move DSCs back up to the refueling floor for PAUT then return to storage location, Risk = 2.3×10^{-12}; with a difference in risk between the two proposed alternatives of 9.3×10^{-13}.

The assessment of difference in risk between the proposed alternatives was performed based on evaluation data from NUREG–1864. The MNGP off-site consequence is based on individual risk and not absolute population difference. Based on the considerations taken into account for the difference between the NUREG–1864 MPC and the MNGP DSCs in this assessment, the NRC staff finds the risk assessment calculation to be reasonable because the applicant used accepted methods and the site-specific considerations were addressed in an appropriately conservative manner.

The purpose of this assessment is to compare the risk associated with leaving these DSCs as-is at the ISFSI versus transferring the five DSCs back to the refueling floor for PAUT, and then returning them to the ISFSI for storage. The process of returning the five DSCs to the refueling floor for PAUT incurs additional crane operation. The inadvertent drop frequency for heavy loads (NUREG–1774, ''A Survey of Crane Operating Experience at U.S. Nuclear Power Plants from 1968 through 2002'', ADAMS Accession No. ML032060160) is 5.6×10^{-5}/lift. The probability of release from a DSC drop accident, assuming defective weld, is 4.0×10^{-2}. This operation occurs inside a closed building with probability of release value of 1.5×10^{-4}. The consequence value for a release is 3.6×10^{-4}. The risk for a drop while lifting a DSC up to the refueling floor can be calculated as:

$(5.6 \times 10^{-5})(4.0 \times 10^{-2})(1.5 \times 10^{-4})(3.6 \times 10^{-4}) = 1.2 \times 10^{-13}$ cancer fatality/year

The risk for a drop while lowering a DSC (assuming no weld flaw, probability of release is 2.0×10^{-2}) through the equipment hatch back to ground level can be calculated as:

$(5.6 \times 10^{-5})(2.0 \times 10^{-2})(1.5 \times 10^{-4})(3.6 \times 10^{-4}) = 6.0 \times 10^{-14}$ cancer fatality/year

The additional risk from performing PAUT for five DSCs would be five times the sum of risk for lifting and lowering one DSC.

$5 \times [(1.2 \times 10^{-13}) + (6.0 \times 10^{-14})] = 9.3 \times 10^{-13}$ cancer fatality/year

Probabilistic risk assessments are typically used to evaluate risks greater than 1.0×10^{-6}. In light of the calculated risk values, the NRC staff finds the off-site risk as too small to be accurately discernable. Based on the discussion presented above, the NRC staff concludes that risk to the public for the two options provided by Jensen Hughes, ''continued storage as-is'' and ''transfer, perform PAUT, and return to storage,'' are essentially equivalent.

Otherwise in the Public Interest

In considering whether granting the exemption is in the public interest, the NRC staff considered the alternative of not granting the exemption. If the exemption were not granted, in order to comply with the CoC, either (1) DSCs 11–15 would have to be removed from their respective HSMs, opened and unloaded, and the contents loaded in new DSCs, with each of those new DSCs welded and tested, or (2) removed from the HSMs to allow access to the OTCP to be machined off, and the ITCP weld machined down to the root weld; and each DSC, ITCP and OTCP inspected to determine if there was any damage as a result of the machining (which would then necessitate the actions detailed in option 1); or (3) conduct PAUT by opening the HSMs to conduct in-situ testing (which is limited to less than 360° of the weld circumference) or transferring to a TC for testing on the ISFSI pad or in the reactor building (essentially Alternative 2 in the *Risk Assessment*). Options 1 and 2 would entail a higher risk of cask handling accidents, additional personnel exposure, and greater cost to the applicant. As noted above in the *Risk Assessment,* Option 3 does not increase the risk by a discernible amount. All options would generate additional radioactive contaminated material and waste from operations. For options 1 and 2, the lid would have to be removed, which would generate cuttings from removing the weld material that could require disposal as contaminated material. For option 3, radioactive wastes would be generated from radioactively contaminated consumables and anti-contamination clothing used during the examination. Also, radioactive waste would be generated from the cleanup of any coupling fluid (of the PAUT) that it combines with and then transports resulting in contamination from the surface of the DSC. This radioactive waste would be transported and ultimately disposed of at a qualified low-level radioactive waste disposal facility, potentially exposing it to the environment.

The proposed exemption to permit continued storage of DSCs 11–15 in their respective HSMs for the service life of the canisters at the MNGP ISFSI is consistent with NRC's mission to protect public health and safety. Approving the requested exemption reduces the opportunity for a release of radioactive material compared to the alternatives to the proposed action, because there will be no operations involving the opening of the DSCs, which confine the spent nuclear fuel, and there will be no operations involving the opening of the HSMs potentially exposing radioactive waste to the environment. Therefore, the exemption is in the public interest.

Environmental Consideration

The NRC staff also considered in the review of this exemption request whether there would be any significant environmental impacts associated with the exemption. The NRC staff determined that this proposed action fits a category of actions that do not require an environmental assessment or environmental impact statement. Specifically, the exemption meets the categorical exclusion in 10 CFR 51.22(c)(25).

Granting this exemption from 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and 72.212(b)(11) only relieves the applicant from the inspection or surveillance requirements associated with performing PT examinations with regard to meeting TS 1.2.5 of Attachment A of CoC No. 1004. A categorical exclusion for inspection or surveillance requirements is provided under 10 CFR 51.22(c)(25)(vi)(C) if the criteria in 10

CFR 51.22(c)(25)(i)–(v) are also satisfied. In its review of the exemption request, the NRC staff determined, as discussed above, that, under 10 CFR 51.22(c)(25): (i) Granting the exemption does not involve a significant hazards considerations because granting the exemption neither reduces a margin of safety, creates a new or different kind of accident from any accident previously evaluated, nor significantly increases either the probability or consequences of an accident previously evaluated; (ii) granting the exemption would not produce a significant change in either the types or amounts of any effluents that may be released offsite because the requested exemption neither changes the effluents nor produces additional avenues of effluent release; (iii) granting the exemption would not result in a significant increase in either occupational radiation exposure or public radiation exposure, because the requested exemption neither introduces new radiological hazards nor increases existing radiological hazards; (iv) granting the exemption would not result in a significant construction impact, because there are no construction activities associated with the requested exemption; and; (v) granting the exemption would not increase either the potential or consequences from radiological accidents such as a gross leak from the closure welds, because the exemption neither reduces the ability of the closure welds to confine radioactive material nor creates new accident precursors at the MNGP ISFSI. Accordingly, this exemption meets the criteria for a categorical exclusion in 10 CFR 51.22(c)(25)(vi)(C).

IV. 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.
Federal Register Notice Issuing Exemption from Nonconforming Dye Penetrant Examinations of Dry Shielded Canister (DSC) 16, June 8, 2016.	ML16159A227
Exemption Request for Nonconforming Dye Penetrant Examinations of Dry Shielded Canisters (DSCs) 11 through 15, October 18, 2017.	ML17296A205
First Request for Additional Information for Review of Exemption Request for Five Nonconforming Dry Shielded Canisters 11 through 15 (CAC No. 001028, Docket No. 72–58, EPID L–2017–LLE–0029), March 6, 2018.	ML18065A545
Monticello Nuclear Generating Plant—Response to Request for Additional Information Regarding Exemption Request for Nonconforming Dye Penetrant Examinations of Dry Shielded Canisters (DSCs) 11 through 15, April 5, 2018.	ML18100A173
Supplement to Exemption Request for Nonconforming Dye Penetrant Examinations of Dry Shielded Canisters (DSCs) 11 through 15 (CAC No. 001028, EPID L–2017–LLE–0029).	ML18151A870
NUREG–1774, ''A Survey of Crane Operating Experience at U.S. Nuclear Power Plants from 1968 through 2002''	ML032060160
Risk-Informed Decisionmaking for Nuclear Material and Waste Applications, Revision 1	ML080720238
NUREG–1536, Revision 1 ''Standard Review Plan for Spent Fuel Dry Storage Systems at a General License Facility''	ML101040620
NUREG–1864, ''A Pilot Probabilistic Risk Assessment of a Dry Cask Storage System at a Nuclear Power Plant''	ML071340012
Attachment A, Technical Specifications, Transnuclear, Inc., Standardized NUHOMS® Horizontal Modular Storage System Certificate of Compliance No. 1004, Renewed Amendment No. 10, Revision 1.	ML17338A114

V. Conclusion

Based on the foregoing considerations, the NRC staff has determined that, pursuant to 10 CFR 72.7, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC grants the applicant an exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), and 72.214 only with regard to meeting TS 1.2.5 of Attachment A of CoC No. 1004 for DSCs 11–15.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 13th day September 2018.

For the Nuclear Regulatory Commission.

John McKirgan,

Branch Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–20283 Filed 9–17–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–445; NRC–2018–0205]

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–87, issued to Vistra Operations Company LLC (the licensee), for operation of the Comanche Peak Nuclear Power Plant (CPNPP), Unit No. 1. The proposed exigent amendment would revise CPNPP Technical Specification (TS) 3.8.4, ''DC [Direct Current] Sources—Operating,'' to allow the licensee additional time to replace two affected battery cells in the safety-related batteries for CPNPP, Unit No. 1. Specifically, the proposed one-time change would add a Required Action to TS 3.8.4, Condition B, to extend the completion time from 2 hours to 18 hours to repair each affected battery cell.

DATES: Submit comments by October 2, 2018. Requests for a hearing or petition for leave to intervene must be filed by November 19, 2018.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0205. Address questions about Docket IDs in *regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Margaret O'Banion, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1233, email: *Margaret.O'Banion@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0205 or Docket No. 50–445 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–2018–0205.
- *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 ''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 license amendment request dated September 5, 2018, is available in ADAMS under Accession No. ML18250A186.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0205 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. NPF–87 issued to Vistra Operations Company LLC (the licensee), for operation of the CPNPP, Unit No. 1, located in Somervell County, Texas.

The proposed exigent amendment would revise CPNPP TS 3.8.4, ''DC Sources—Operating,'' to allow the licensee additional time to replace two affected battery cells in the Train B safety-related batteries for CPNPP, Unit No. 1. Specifically, the proposed one-time change would add a new Required Action to TS 3.8.4, Condition B, to extend the completion time from 2 hours to 18 hours to repair each affected battery cell. On November 8, 2017, the licensee experienced cell jar cracking on cell 41 in battery BT1ED4. On July 2, 2018, the licensee experienced cell jar cracking on cell 27 in battery BT1ED2. Both affected battery cells have been jumpered out to restore operability of Unit No. 1, Train B batteries BT1ED4 and BT1ED2. The licensee stated that by replacing the affected battery cells, the licensee would regain margin on its safety-related batteries.

In accordance with the requirements of paragraph 50.91(a)(6) of title 10 of the *Code of Federal Regulations* (10 CFR), the licensee requested approval of the amendment under exigent circumstances. The licensee stated that exigent approval was needed to avoid a potential shutdown in the event of an unanticipated second battery cell failure on either of the CPNPP, Unit No. 1, Train B batteries. In addition, the licensee stated that it had made a good faith effort to submit the license amendment request in a timely manner following the failure of one of the affected battery cells in July 2018. The licensee requested an issuance date of October 3, 2018, to support replacement of the two Unit No. 1, Train B battery cells during CPNPP, Unit 1, Cycle 20. Based on its evaluation of the licensee's request, the NRC staff finds that exigent circumstances exist. Therefore, in accordance with 10 CFR 50.91(a)(6)(i)(A), the NRC staff is providing a 14-day notice period for public comment.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes add provisions to increase the COMPLETION TIME (CT) from two hours to eighteen hours, on a one-time basis for Comanche Peak Nuclear Power Plant Class 1E Batteries BT1ED2 and BT1ED4. This one-time increase will only be used once per battery during Unit 1 Cycle 20 (not at the same time). An additional REQUIRED ACTION, new Note, and associated COMPLETION TIME is specified when batteries BT1ED2 and BT1ED4, associated with the plant Class 1 E Direct Current (DC) electrical power subsystem, are declared inoperable to replace a jumpered cell. The proposed changes do not physically alter any plant structures, systems, or components, and are not accident initiators: therefore, there is no effect on the probability of accidents previously evaluated. As part of the single failure design feature, loss of any one DC electrical power subsystem does not prevent the minimum safety function from being performed. Also, the proposed changes do not affect the type or amounts of radionuclides release following an accident, or affect the initiation and duration of their release. Therefore, the consequences of accidents previously evaluated, which rely on the safety related Class 1E battery to mitigate, are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a change in design, configuration, or method of operation of the plant. The proposed changes will not alter the manner in which equipment is operated, nor will the functional demands on credited equipment be changed. The proposed changes do not impact the interaction of any systems whose failure or malfunction can initiate an accident. There are no identified redundant components affected by these changes and thus there are no new common cause failures

or any existing common cause failures that are affected by extending the CT. The proposed changes do not create any new failure modes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are based upon a deterministic evaluation. This evaluation is supplemented by risk information.

The deterministic evaluation concluded with one inoperable battery associated with the Class 1E DC electrical power subsystem, the redundant OPERABLE Class 1E DC electrical power subsystems will be able to perform the safety function as described in the accident analysis.

Supplemental risk information supporting this license amendment request concluded that the additional REQUIRED ACTION, new Note, and associated COMPLETION TIME have a negligible impact on overall plant risk and is consistent with the NRC Safety Goal Policy statement and the thresholds in Regulatory Guide (RG) 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' and RG 1.177, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications.''

The deterministic evaluation and the supplemental risk information provide assurance that the plant Class 1E DC electrical power subsystem will be able to perform its design function with a longer COMPLETION TIME for inoperable batteries BT1ED2 and BT1ED4 during Unit 1 Cycle 20, and risk is not significantly impacted by the change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves a no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, if circumstances change during the notice period, such that failure to act in a timely way would result, for example, in shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. If the Commission takes this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to

the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings,

unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated September 5, 2018.

Attorney for Licensee: Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1111 Pennsylvania Avenue NW, Washington, DC 20004.

NRC Acting Branch Chief: Thomas J. Wengert.

Dated at Rockville, Maryland, this 13th day of September 2018.

For the Nuclear Regulatory Commission.

Margaret W. O'Banion,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–20211 Filed 9–17–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C), SEC File No. 270–057, OMB Control No. 3235–0057

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 14(c) of the Securities Exchange Act of 1934 (the ''Exchange Act'') operates to require issuers that do not solicit proxies or consents from any or all of the holders of record of a class of securities registered under Section 12 of the Exchange Act and in accordance with the rules and regulations prescribed under Section 14(a) in connection with a meeting of security holders (including action by consent) to distribute to any holders that were not solicited an information statement substantially equivalent to the information that would be required to be transmitted if a proxy or consent solicitation were made. Regulation 14C (Exchange Act Rules 14c–1 through 14c–7 and Schedule 14C) (17 CFR 240.14c–1 through 240.14c–7 and 240.14c–101) sets forth the requirements for the dissemination, content and filing of the information statement. We estimate that Schedule 14C takes approximately 130.9197 hours per response and will be filed by approximately 569 issuers annually. In addition, we estimate that 75% of the 130.9197 hours per response (98.1898 hours) is prepared by the issuer for an annual reporting burden of 55,870 hours (98.1898 hours per response × 569 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 12, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20278 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84089; File No. SR–MIAX–2018–24]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404A, Select Provisions of Options Listing Procedures Plan, Rule 406, Long-Term Option Contracts, and Rule 1809, Terms of Index Options Contracts

September 12, 2018.

Pursuant to the provisions of 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 August 30, 2018, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend Rule 404A, Select Provisions of Options Listing Procedures Plan, Rule 406, Long-Term Option Contracts, and Rule 1809, Terms of Index Options Contracts.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend MIAX Options Rule 404A, Select Provisions of Options Listing Procedures Plan, Rule 406, Long-Term Option Contracts, and Rule 1809, Terms of Index Options Contracts, to conform its rules to the recently approved changes to the Options Listing Procedures Plan (''OLPP''), as well as to the rules of other exchanges.[3] The Exchange, which is one of the Participant Exchanges to the OLPP, currently has rules that are designed to incorporate the requirements of the OLPP.[4] All Participant Exchanges have similar (essentially uniform) rules to ensure consistency and compliance with the OLPP. The Exchange proposes to modify its rules to reflect the recent updates described below, as well as to conform to the rules of the other exchanges.

Addition of Long-Term Equity Options (''LEAPS'')

First, the OLPP has been amended to change the earliest date on which new January LEAPS on equity options, options on Exchange Traded Funds (''ETF''), or options on Trust Issued Receipts (''TIR'') may be added to a single date (from three separate months). As noted in the OLPP Notice, in the past, there were operational concerns related to adding new January LEAPs series for all options classes on which LEAPs were listed on a single trading day.[5] And, the addition of new series in a pre-electronic environment was a manual process. To accommodate this, the addition of new January LEAPs series was spread across three months (September, October, and November). Today, however, these operational concerns related to January LEAPs have been alleviated as new series can be added in bulk electronically. The Plan Participants, including the Exchange, believe that moving the addition of new January LEAPs series to no earlier than the Monday prior to the September expiration would reduce marketplace confusion about available January LEAPs series. Where previously January LEAPs series for options classes on the February or March expiration cycles would not have been available as early as January LEAPs series for options classes on the January expiration cycle, under the proposed change, all January LEAPs series will be available concurrently. Accordingly, to conform to this change, the Exchange proposes to modify current Rule 406(b) to reflect that new January LEAPS series on equity options classes, options on ETFs, or options on TIRs, may not be added on a currently listed and traded option class earlier than the Monday prior to the September expiration (which is 28 months before the expiration).[6]

Addition of Equity, ETF, and TIR Option Series After Regular Trading Hours

Second, the OLPP has been amended to allow equity, ETF, and TIR option series to be added based on trading after regular trading hours (*i.e.,* after-market). As noted in the OLPP Notice, the prior version of the OLPP did not allow for option series to be added based on trading following regular trading hours.[7] As such, the Exchange Participants were unable to add new option series that may result from trading following regular trading hours until the next morning, depending on the range of prices in pre-market trading, which is significant because events that occur after regular trading hours, such as earnings releases, often have an important impact on the price of an underlying security. In addition, there are operational difficulties for market participants throughout the industry adding series after system startup. To avoid the potential burden that would result from the inability to add series as a result of trading following regular trading hours, the OLPP was amended to allow an additional category by which the price of an underlying security may be measured. Specifically, to conform to the amended OLPP, the Exchange proposes to add subparagraph (b)(1)(iv) to Rule 404A to provide that ''for options series to be added based on trading following regular trading hours,'' the price of the underlying security is measured by ''the most recent share price reported by all national securities exchanges between 4:15 p.m. and 6:00 p.m. Eastern Time.'' [8]

Technical Changes

The Exchange proposes to modify Rule 406(b) to delete now obsolete operational language, which dates back to when LEAPs were first adopted. The language in question provides that:

> After a new long-term option contract series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

The Exchange proposes to delete this language because when this language was adopted LEAPs were not opened for trading until late in the trading day unless there was buying or selling interest. Today, however, technological improvements allow the Exchange to open all LEAP series at the same time as all other series in an option class.

For the same reasons as described above, the Exchange also proposes to modify Rule 1809(b)(1)(ii) to delete similar obsolete operational language, which relates to long-term index options series, and provides that:

> When a new long-term index options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

Conforming Changes

The Exchange proposes to make certain changes to conform its rules to the rules of other exchanges and to codify a certain provision in the OLPP that is not currently included in its rules. First, the Exchange proposes to add additional clarifying language to Rule 406(b). Specifically, the Exchange proposes to add a paragraph to note that, pursuant to the OLPP, ''exchanges that list and trade the same equity option class, ETF option class, or TIR option class are authorized to jointly determine and coordinate with the Options Clearing Corporation on the date of introduction of new LEAP series for that option class consistent with this paragraph (b).'' This clarifying language is identical to language contained in other exchanges' rules.[9]

Second, Amendment 2 to the OLPP [10] provided for a uniform minimum

[3] *See* Securities Exchange Act Release Nos. 82235 (December 7, 2017), 82 FR 58688 (December 13, 2017) (order approving the Fourth Amendment to the OLPP); 81893 (October 18, 2017), 82 FR 49249 (''OLPP Notice'').

[4] In addition to the Exchange, the ''Participant Exchanges'' are: Cboe Exchange, Inc.; Cboe BZX Exchange, Inc.; BOX Options Exchange, LLC; Cboe C2 Exchange, Inc.; Cboe EDGX Exchange, Inc.; MIAX PEARL, LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Nasdaq Options Market, LLC; Nasdaq PHLX, LLC; NYSE Arca, Inc.; and NYSE American, LLC.

[5] *See* OLPP Notice at 49249.

[6] *See* proposed Rule 406(b).

[7] *See* OLPP Notice at 49250.

[8] *See* proposed Rule 404A(b)(1)(iv). The Exchange proposes to relocate ''and'' from subparagraph (ii) to (iii) to conform to the change. *See* proposed Rule 404A(b)(1)(ii) and (iii).

[9] For example, *see* Cboe Rule 5.8(b); *see also* NYSE Arca Rule 6.4–O(d)(ii).

[10] *See* Securities Exchange Act Release No. 58630 (September 24, 2008), 73 FR 57166 (October 1, 2008) (Order granting permanent approval to Amendment No. 2 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options).

volume threshold per underlying class to qualify for the introduction of a new expiration year of LEAPS on equity, ETF and TIR classes. The Exchange proposes to codify this change made to the OLPP by Amendment 2 as new subparagraph (c) to Rule 406 of the Exchange's rules. Specifically, this provision will provide: ''The Exchange shall not list new LEAP series on equity option classes, options on ETFs, or options on TIRs in a new expiration year if the national average daily contract volume, excluding LEAP and FLEX series, for that option class during the preceding three (3) calendar months is less than 1,000 contracts, unless the new LEAP series has an expiration year that has already been listed on another exchange for that option class. The preceding volume threshold does not apply to the first six (6) months an equity option class, option on an ETF or option on a TIR is listed on any exchange.'' The Exchange notes that this conforming change is necessary to align the rules of the Exchange with the OLPP and with other exchanges.[11]

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change, which conforms to the recently adopted provisions of the OLPP, as amended, allows the Exchange to continue to list extended far term option series that have been viewed as beneficial to traders, investors and public customers. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to list all January 2021 expiration series on the Monday prior to the September 2018 expiration. Moreover, this change would simplify the process for adding new January LEAP options series and reduce potential for investor confusion because all new January LEAP options would be made available beginning at the same time, consistent with the amended OLPP. The Exchange notes that this proposal does not propose any new provisions that have not already been approved by the Commission in the amended OLPP, but instead maintains series listing rules that conform to the amended OLPP.

The proposal to permit series to be added based on after-market trading is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange to make series available for trading with reduced operational difficulties. The Exchange notes that this proposed change, which is consistent with the amended OLPP should provide market participants with earlier notice regarding what options series will be available for trading the following day, and should help to enhance investors' ability to plan their options trading. The Exchange also believes that the proposed technical changes, including deleting obsolete language and reorganizing and consolidating the rule, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. Furthermore, the Exchange believes that the proposed conforming changes, adding language to Rule 406, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system by providing clarity and consistency to the rules, and creating uniformity amongst exchanges with respect to rules related to the OLPP.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that by conforming Exchange rules to the amended OLPP, the Exchange would promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Exchange believes that adopting rules, which it anticipates will likewise be adopted by Participant Exchanges, would allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative

[11] For example, *see* Cboe Rule 5.8(c); *see also* NYSE Arca Rule 6.4–O(d)(iii).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 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.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

immediately upon filing. The Commission notes that the Exchange's proposal would conform the Exchange's rules to the amended OLPP, which the Commission previously approved.[20] Accordingly, the Commission believes that the proposal raises no new or novel regulatory issues and waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission therefore waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[21]

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)[22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–24 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–MIAX–2018–24. 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–MIAX–2018–24 and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20190 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* OLPP Notice, *supra* note 3.

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84107; File No. SR–CboeBZX–2018–070]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the iShares iBonds Dec 2025 Term Muni Bond ETF of iShares Trust Under BZX Rule 14.11(c)(4) (Index Fund Shares)

September 13, 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 August 30, 2018, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to list and trade under BZX Rule 14.11(c)(4) the shares of the iShares iBonds Dec 2025 Term Muni Bond ETF (the ''Fund'') of iShares Trust (the ''Trust'').

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Fund under BZX Rule 14.11(c)(4),[5] which governs the listing and trading of index fund shares based on fixed income securities indexes.[6] The Shares will be

[5] The Commission approved BZX Rule 14.11(c) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[6] The Commission previously has approved proposed rule changes relating to listing and trading of funds based on municipal bond indexes. *See* Securities Exchange Act Release Nos. 78329 (July 14, 2016), 81 FR 47217 (July 20, 2016) (SR–BatsBZX–2016–01) (order approving the listing and trading of the following series of VanEck Vectors ETF Trust: VanEck Vectors AMT-Free 6–8 Year Municipal Index ETF; VanEck Vectors AMT-Free 8–12 Year Municipal Index ETF; and VanEck Vectors AMT-Free 12–17 Year Municipal Index ETF); 67985

offered by the Trust, which was established as a Delaware statutory trust on December 16, 1999. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[7]

Rule 14.11(c)(4)(B)(i)(b) requires that component fixed income securities that, in the aggregate, account for at least 75% of the weight of the index or portfolio shall have a minimum principal amount outstanding of $100 million or more. The Exchange submits this proposal because the Underlying Index does not meet this requirement. The Underlying Index does, however, meet all of the other requirements of Rule 14.11(c)(4).

Description of the Shares and the Fund

BlackRock Fund Advisors (''BFA'') is the investment adviser to the Fund.[8] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Trust. S&P is the index provider (the ''Index Provider'') for the Fund. BlackRock Investments, LLC serves as the distributor for the Trust.

S&P AMT-Free Municipal Series Dec 2025 Index

According to the Registration Statement, the Fund will seek to track the investment results, before fees and expenses, of the S&P AMT-Free Municipal Series Dec 2025 Index (the ''Underlying Index''), which measures the performance of investment-grade (as determined by Index Provider), non-callable U.S. municipal bonds maturing in 2025. The Underlying Index includes municipal bonds from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the federal alternative minimum tax (''AMT'') (''Municipal Securities'').

As of July 13, 2018, the Underlying Index included 4,823 component fixed income municipal bond securities from issuers in 51 different states or U.S. territories.[9] The most heavily weighted security in the Underlying Index represented approximately 1.10% of the total weight of the Underlying Index and the aggregate weight of the top five most heavily weighted securities in the Underlying Index represented less than 2.98% of the total weight of the Underlying Index. Approximately 6.73% of the weight of the components in the Underlying Index had a minimum original principal outstanding of $100 million or more and 75.56% of the weight of the components were a constituent of an offering where the original offering amount was at least $100 million. In addition, the total dollar amount outstanding of issues in the Underlying Index was approximately $40,600,000,000 and the average dollar amount outstanding of issues in the Underlying Index was approximately $8,419,000.

Requirement for Index Constituents

Each bond in the Underlying Index must be denominated in U.S. dollars, must have a minimum par amount of $2 million. To remain in the Underlying Index, bonds must maintain a minimum par amount greater than or equal to $2 million as of the next rebalancing date. The Underlying Index includes Municipal Securities from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the AMT. Each bond in the Underlying Index must be investment-grade (*i.e.*, have a rating of at least BBB− by S&P Global Ratings, Baa3 by Moody's Investors Service, Inc., or BBB− by Fitch Ratings, Inc.). A bond must be rated by at least one of these three rating agencies in order to qualify for the Underlying Index, and the lowest rating will be used in determining if the bond is investment-grade. All bonds in the Underlying Index will mature after December 31, 2024 and before December 2, 2025. The Underlying Index will also contain at least 500 component securities.

Portfolio Holdings

The Fund's holdings may include only the following types of Municipal Securities: General obligation bonds,[10] limited obligation bonds (or revenue bonds),[11] municipal notes,[12] municipal commercial paper,[13] tender option bonds,[14] variable rate notes and demand obligations (''VRDOs''),[15] municipal lease obligations,[16] stripped securities,[17] structured securities,[18] and zero coupon securities.[19]

(October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca, Inc. (''NYSE Arca'') Rule 5.2(j)(3), Commentary .02); 72523 (July 2, 2014), 79 FR 39016 (July 9, 2014) (SR–NYSEArca–2014–37) (order approving proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2(j)(3), Commentary .02); and 75468 (July 16, 2015), 80 FR 43500 (July 22, 2015) (SR–NYSEArca–2015–25) (order approving proposed rule change relating to the listing and trading of the iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Rule 5.2(j)(3), Commentary .02).

[7] *See* Registration Statement on Form N–1A for the Trust, dated [DATE] [sic] (File Nos. 333–92935 and 811–09729). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 28021 (October 24, 2007) (File No. 812–13426).

[8] BFA is an indirect wholly owned subsidiary of BlackRock, Inc.

[9] Unless otherwise noted, all statistics related to the Underlying Index presented hereafter were accurate as of July 13, 2018.

[10] General obligation bonds are obligations involving the credit of an issuer possessing taxing power and are payable from such issuer's general revenues and not from any particular source.

[11] Limited obligation bonds are payable only from the revenues derived from a particular facility or class of facilities or, in some cases, from the proceeds of a special excise or other specific revenue source, and also include industrial development bonds issued pursuant to former U.S. federal tax law. Industrial development bonds generally are also revenue bonds and thus are not payable from the issuer's general revenues. The credit and quality of industrial development bonds are usually related to the credit of the corporate user of the facilities. Payment of interest on and repayment of principal of such bonds is the responsibility of the corporate user (and/or any guarantor).

[12] Municipal notes are shorter-term municipal debt obligations that may provide interim financing in anticipation of tax collection, receipt of grants, bond sales, or revenue receipts.

[13] Municipal commercial paper is generally unsecured debt that is issued to meet short-term financing needs.

[14] Tender option bonds are synthetic floating-rate or variable-rate securities issued when long-term bonds are purchased in the primary or secondary market and then deposited into a trust. Custodial receipts are then issued to investors, such as the Fund, evidencing ownership interests in the trust.

[15] VRDOs are tax-exempt obligations that contain a floating or variable interest rate adjustment formula and a right of demand on the part of the holder thereof to receive payment of the unpaid principal balance plus accrued interest upon a short notice period not to exceed seven days.

[16] Municipal lease obligations include certificates of participation issued by government authorities or entities to finance the acquisition or construction of equipment, land, and/or facilities.

[17] Stripped securities are created when an issuer separates the interest and principal components of an instrument and sells them as separate securities. In general, one security is entitled to receive the interest payments on the underlying assets and the other to receive the principal payments.

[18] Structured securities are privately negotiated debt obligations where the principal and/or interest is determined by reference to the performance of an underlying investment, index, or reference obligation, and may be issued by governmental agencies. While structured securities are part of the principal holdings of the Fund, the Issuer represents that such securities, when combined with those instruments held as part of the other portfolio holdings described below, will not exceed 20% of the Fund's net assets.

[19] Zero coupon securities are securities that are sold at a discount to par value and do not pay interest during the life of the security. The discount approximates the total amount of interest the security will accrue and compound over the period

Continued

Under normal market conditions,[20] the Fund will invest at least 90% of its assets in the component securities of the Underlying Index, except during the last months of the Fund's operations. With respect to the remaining 10% of its assets, the Fund may invest in certain futures, options and swap contracts,[21] cash and cash equivalents, including shares of money market funds advised by BFA or its affiliates, as well as in Municipal Securities not included in the Underlying Index, but which BFA believes will help the Fund track the Underlying Index. From time to time when conditions warrant, however, the Fund may invest at least 80% of its assets in the component securities of the Underlying Index.

In the last months of operation, as the bonds held by the Fund mature, the proceeds will not be reinvested in bonds but instead will be held in cash and cash equivalents, including, without limitation, shares of money market funds advised by BFA or its affiliates (''BlackRock Cash Funds''), AMT-free tax-exempt municipal notes, variable rate demand notes and obligations, tender option bonds and municipal commercial paper. These cash equivalents may not be included in the Fund's benchmark index.

Discussion

Based on the characteristics of the Underlying Index and the representations made in the Requirements for Index Constituents section above, the Exchange believes it is appropriate to allow the listing and trading of the Shares. The Underlying Index and Fund satisfy all of the generic listing requirements for Index Fund Shares based on a fixed income index, except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). The Exchange notes that the representations in the Requirements for Index Constituents for the Underlying Index are identical to the representations made regarding the S&P AMT-Free Municipal Series Dec 2023 Index and the S&P AMT-Free Municipal Series Dec 2024 Index (the ''Comparable Indexes''), each underlying a series of Index Fund Shares that were previously approved for listing and trading by the Commission.[22]

The Approval Order included the representation that a bond must be investment-grade and must have an outstanding par value of at least $2 million in order to be included in the Comparable Indexes. To remain in the Underlying Index, bonds must be investment-grade and maintain a minimum par amount greater than or equal to $2 million and, further, BFA has represented that the Underlying Index will have at least 500 constituents on a continuous basis. As such, the Exchange believes that the proposal is consistent with the Act because the representations regarding the quality and size of the issuances included in the Underlying Index provide a strong degree of protection against index manipulation that is consistent with other proposals that have been approved for listing and trading by the Commission, which is only furthered by the additional representation that the Underlying Index will have at least 500 constituents on a continuous basis, which ensures diversification among constituent securities.

In addition, the Exchange represents that: (1) Except for Rule 14.11(c)(4)(B)(i)(b), the Underlying Index currently satisfies all of the generic listing standards under Rule 14.11(c)(4); (2) the continued listing standards under Rule 14.11(c), as applicable to Index Fund Shares based on fixed income securities, will apply to the Shares; and (3) the issuer of the Fund is required to comply with Rule 10A–3 [23] under the Act for the initial and continued listing of the Shares. In addition, the Exchange represents that the Fund will comply with all other requirements applicable to Index Fund Shares, including, but not limited to, requirements relating to the dissemination of key information such as the value of the Underlying Index and the Intraday Indicative Value (''IIV''),[24] rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers and the Information Circular, as set forth in the Exchange rules applicable to Index Fund Shares and prior Commission orders approving the generic listing rules applicable to the listing and trading of Index Fund Shares.

The current value of the Underlying Index will be widely disseminated by one or more major market data vendors at least once per day, as required by Rule 14.11(c)(4)(C)(ii). The portfolio of securities held by the Fund will be disclosed daily on the Fund's website at *www.ishares.com*. Further, the Fund's website will contain the Fund's prospectus and additional data relating to net asset value (''NAV'') and other applicable quantitative information. The issuer has represented that the NAV will be calculated daily and will be made available to all market participants at the same time. The Index Provider is not a broker-dealer and is not affiliated with a broker-dealer. To the extent that the Index Provider becomes a broker-dealer or becomes affiliated with a broker-dealer, the Index Provider will implement and will maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Index and the Underlying Index shall be calculated by a third party who is not a broker-dealer or fund advisor. In addition, any advisory committee, supervisory board or similar entity that advises the Index Provider or that makes decisions on the Index, methodology and related matters, will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the Underlying Index.

The Exchange's existing rules require that the issuer of the Fund notify the Exchange of any material change to the methodology used to determine the composition of the Underlying Index and, therefore, if the methodology of the Underlying Index was changed in a manner that would materially alter its existing composition, the Exchange would have advance notice and would evaluate the modifications to determine

until maturity at a rate of interest reflecting the market rate of the security at the time of issuance. Upon maturity, the holder of a zero coupon security is entitled to receive the par value of the security.

[20] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[21] Such futures, options and swap contracts will include only the following: Interest rate futures, interest rate options, and interest rate swaps. The derivatives will be centrally cleared and they will be collateralized. At least 90% of the Fund's net assets that are invested in listed derivatives will be invested in instruments that trade in markets that are members or affiliates of members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing with the Exchange.

[22] *See* Securities Exchange Act Release No. 79381 (November 22, 2016), 81 FR 86044 (November 29, 2016) (SR–BatsBZX–2016–48) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2 Thereto, To List and Trade Shares of the iShares iBonds Dec 2023 Term Muni Bond ETF and iShares iBonds Dec 2024 Term Muni Bond ETF of the iShares U.S. ETF Trust Pursuant to BZX Rule 14.11(c)(4)) (the ''Approval Order'').

[23] 17 CFR 240.10A–3.

[24] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours. Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

whether the Underlying Index remained sufficiently broad-based and well diversified.

Availability of Information

The Fund's website, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Shares will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites. On each business day, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets in the daily disclosed portfolio held by the Fund that formed the basis for the Fund's calculation of NAV at the end of the previous business day. The daily disclosed portfolio will include, as applicable: The ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website and information will be publicly available at no charge. The value, components, and percentage weightings of the Underlying Index will be calculated and disseminated at least once daily and will be available from major market data vendors. Rules governing the Underlying Index are available on S&P's website and in the Fund's prospectus.

In addition, an estimated value, defined in BZX Rule 14.11(c)(6)(A) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the daily disclosed portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[25] In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if updated prices cannot be ascertained.

The dissemination of the Intraday Indicative Value, together with the daily disclosed portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide a close estimate of that value throughout the trading day.

Quotation and last sale information for the Shares will be available via the CTA high speed line. Price information regarding Municipal Securities and other non-exchange traded assets including certain derivatives, money market funds and other instruments, and repurchase agreements is available from third party pricing services and major market data vendors. For exchange-traded assets, including futures, and certain options, such intraday information is available directly from the applicable listing exchange. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[26]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[27] in general and Section 6(b)(5) of the Act[28] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria for Index Fund Shares based on a fixed income index in Rule 14.11(c)(4), except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). The

[25] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[26] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[27] 15 U.S.C. 78f [sic].

[28] 15 U.S.C. 78f(b)(5).

Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange as well as cross-market surveillances administered by the FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG. In addition, the Exchange will communicate as needed regarding trading in the Shares with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE.

As discussed above, the Exchange believes that the Underlying Index is sufficiently broad-based to deter potential manipulation. The Underlying Index currently includes 4,823 component securities. Whereas the Rule 14.11(c)(4)(B)(i)(e) requires that an index contain securities from a minimum of 13 non-affiliated issuers, the Underlying Index includes securities issued by municipal entities in more than 51 states or U.S. territories. Further, whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index, the largest component security in the Underlying Index only constitutes 1.10% of the weight of the Underlying Index and the largest five component securities represent 2.98% of the weight of the Underlying Index.

The Exchange believes that this significant diversification and the lack of concentration among constituent securities provide a strong degree of protection against index manipulation. The Underlying Index and Fund satisfy all of the generic listing requirements for Index Fund Shares based on a fixed income index, except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). With this in mind, the Exchange notes that the representations in the Requirements for Index Constituents for the Underlying Index are identical to the representations made regarding the Comparable Indexes, each of which are underlying a series of Index Fund Shares that were previously approved for listing and trading by the Commission [29] and, further, BFA has made an additional representation regarding diversification that was not included in the Approval Order.

The Approval Order included the representation that a bond must be investment-grade and must have an outstanding par value of at least $2 million in order to be included in the Comparable Indexes. To remain in the Underlying Index, bonds must be investment-grade and maintain a minimum par amount greater than or equal to $2 million and, further, BFA has represented that the Underlying Index will have at least 500 constituents on a continuous basis. As such, the Exchange believes that the proposal is consistent with the Act because the representations regarding the quality and size of the issuances included in the Underlying Index provide a strong degree of protection against index manipulation that is consistent with other proposals that have been approved for listing and trading by the Commission, which is only furthered by the additional representation that the Underlying Index will have at least 500 constituents on a continuous basis, which ensures diversification among constituent securities.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information is publicly available regarding the Fund, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on the Fund's website daily after the close of trading on the Exchange. Moreover, the IIV for Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours. The current value of the Index will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

If the Exchange becomes aware that the Fund's NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares the Fund inadvisable. If the IIV and index value are not being disseminated for the Fund as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs. If the interruption to the dissemination of an IIV or index value persists past the trading day in which it occurred, the Exchange will halt trading. The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted. In addition, investors will have ready access to information regarding the applicable IIV, and quotation and last sale information for the Shares. Trade price and other information relating to Municipal Securities is available through the EMMA system.

All statements and representations made in this filing regarding the Index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of Index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer is required to

[29] *See* supra note 9 [sic].

advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 14.12.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an exchange-traded product that principally holds Municipal Securities and that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the IIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[30] and Rule 19b–4(f)(6) thereunder.[31]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–070 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–CboeBZX–2018–070. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–070, and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20237 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 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.

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, September 20, 2018.

PLACE: Closed Commission Hearing, Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: September 13, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–20318 Filed 9–14–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84103; File No. SR–NYSEARCA–2018–66]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges To Introduce a New Pricing Tier, Step Up Tier 3

September 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 4, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to introduce a new pricing tier, Step Up Tier 3. The Exchange proposes to implement the fee change effective September 4, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to introduce a new pricing tier, Step Up Tier 3. The Exchange proposes to implement the fee change effective September 4, 2018.

The Exchange currently has a Step Up Tier pursuant to which qualifying ETP Holders and Market Makers receive a credit of $0.0030 per share for orders that provide displayed liquidity to the Book in Tape A Securities, $0.0023 per share for orders that provide displayed liquidity to the Book in Tape B Securities, and $0.0031 per share for orders that provide displayed liquidity to the Book in Tape C Securities if such ETP Holders and Market Makers directly execute providing average daily volume (''ADV'') per month of 0.50% or more but less than 0.70% of the US CADV, and directly execute providing ADV that is an increase of no less than 0.10% of US CADV for that month over the ETP Holder's or Market Maker's providing ADV in Q1 2018.[4]

The Exchange also has a Step Up Tier 2 pricing tier pursuant to which ETP Holders and Market Makers receive a credit of $0.0028 per share for orders that provide displayed liquidity to the Book in Tape A and Tape C Securities, and $0.0022 per share for orders that provide displayed liquidity to the Book in Tape B Securities if such ETP Holders and Market Makers directly execute providing ADV per month of 0.22% or more but less than 0.30% of the US CADV, and directly execute providing ADV that is an increase of no less than 0.06% of US CADV for that month over the ETP Holder's or Market Maker's providing ADV in May 2018.[5]

The Exchange proposes a new pricing tier—Step Up Tier 3—for securities with a per share price of $1.00 or above. As proposed, ETP Holders and Market Makers would qualify for the new Step Up Tier 3 if they directly execute providing ADV per month of 0.15% or more but less than 0.20% of the US CADV and directly execute providing ADV that is an increase of no less than 0.075% of US CADV for that month over the ETP Holder's or Market Maker's providing ADV in May 2018. ETP Holders and Market Makers that qualify for Step Up Tier 3 would receive a credit of $0.0025 per share for orders that provide displayed liquidity to the Book in Tape A and Tape C Securities and $0.0022 per share for orders that provide displayed liquidity to the Book in Tape B Securities. For all other fees and credits, tiered or basic rates apply based on a firm's qualifying levels.

The goal of the proposed Step Up Tier 3 pricing tier is to further incentivize ETP Holders and Market Makers to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The proposed pricing tier, which adopts a lower threshold than the Step Up Tier and Step Up Tier 2 is intended to allow ETP Holders and Market Makers to achieve rebates that weren't previously available. The Exchange believes that the proposed new pricing tier will provide an incentive for ETP Holders and Market Makers that do not meet current tier requirements to direct more of their order flow to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the Step Up Tier 3 pricing tier will serve as an incentivize [sic] to market participants to increase the orders sent directly to NYSE Arca and therefore provide

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 83032 (April 11, 2018), 83 FR 16909 (April 17, 2018) (SR–NYSEArca–2018–20).

[5] *See* Securities Exchange Act Release No. 83418 (June 12, 2018), 83 FR 28282 (June 18, 2018) (SR–NYSEArca–2018–41).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes the proposed pricing tier, which adopts a lower threshold, is reasonable and equitable because it would allow ETP Holders and Market Makers that directly execute providing ADV of at least 0.15% but less than 0.20% of US CADV and directly execute providing ADV that is an increase of no less than 0.075% of US CADV to receive credits that were not previously available. Firms that meet the requirement of the proposed pricing tier did not previously receive higher credits for adding displayed liquidity. Moreover, the addition of the Step Up Tier 3 would benefit market participants whose increased order flow provides meaningful added levels of liquidity thereby contributing to the depth and market quality on the Exchange. The Exchange believes that the proposed new Step Up Tier 3 is not unfairly discriminatory because it is open to all ETP Holders and Market Makers, on an equal basis, that add liquidity at or below the proposed Step Up Tier 3 requirement and who do not qualify for rebates currently provided pursuant to Tiers 1, 2 and 3 or pursuant to Step Up Tiers 1 and 2. The Exchange further believes that ETP Holders and Market Makers that provide liquidity below 0.20% of US CADV, which is a minimum requirement pursuant to Tier 3 to qualify for increased rebates, would now be eligible for the proposed rebates if they meet the requirements of the proposed Step Up Tier 3.

The Exchange believes that the proposed fee change is equitable and not unfairly discriminatory because providing incentives for orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposal to add a new pricing tier would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2018–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2018–66. 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

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

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–NYSEARCA–2018–66 and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20196 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form N–8A, SEC File No. 270–135, OMB Control No. 3235–0175.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The Investment Company Act of 1940 (''Investment Company Act'') (15 U.S.C. 80a–1 *et seq.*) requires investment companies to register with the Commission before they conduct any business in interstate commerce. Section 8(a) of the Investment Company Act provides that an investment company shall be deemed to be registered upon receipt by the Commission of a notification of registration in such form as the Commission prescribes. Form N–8A (17 CFR 274.10) is the form for notification of registration that the Commission has adopted under section 8(a). The purpose of such notification of registration provided on Form N–8A is to notify the Commission of the existence of investment companies required to be registered under the Investment Company Act and to enable the Commission to administer the provisions of the Investment Company Act with respect to those companies. After an investment company has filed its notification of registration under section 8(a), the company is then subject to the provisions of the Investment Company Act which govern certain aspects of its organization and activities, such as the composition of its board of directors and the issuance of senior securities. Form N–8A requires an investment company to provide its name, state of organization, form of organization, classification, the name and address of each investment adviser of the investment company, the current value of its total assets, and certain other information readily available to the investment company. If the investment company is filing a registration statement as required by Section 8(b) of the Investment Company Act concurrently with its notification of registration, Form N–8A requires only that the registrant file the cover page (giving its name, address, and agent for service of process) and sign the form in order to effect registration.

Based on recent filings of notifications of registration on Form N–8A, we estimate that about 96 investment companies file such notifications each year. An investment company must only file a notification of registration on Form N–8A once. The currently approved average hour burden per investment company of preparing and filing a notification of registration on Form N–8A is one hour. Based on the Commission staff's experience with the requirements of Form N–8A and with disclosure documents generally—and considering that investment companies that are filing notifications of registration on Form N–8A simultaneously with the registration statement under the Investment Company Act are only required by Form N–8A to file a signed cover page—we continue to believe that this estimate is appropriate. Therefore, we estimate that the total annual hour burden to prepare and file notifications of registration on Form N–8A is 96 hours. The currently approved cost burden of Form N–8A is $449. We continue to believe that this estimate is appropriate. Therefore, we estimate that the total annual cost burden to associated with preparing and filing notifications of registration on Form N–8A is about $43,104.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form N–8A is mandatory. Responses to the collection of information will not be kept confidential. 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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 12, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20279 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Regulation SCI, Form SCI, SEC File No. 270–653, OMB Control No. 3235–0703

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995

[12] 17 CFR 200.30–3(a)(12).

(''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Regulation Systems Compliance and Integrity (''Regulation SCI'') (17 CFR 242.1000–1007) and Form SCI (17 CFR 249.1900) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

Regulation SCI requires certain key market participants to, among other things: (1) Have comprehensive policies and procedures in place to help ensure the robustness and resiliency of their technological systems, and also that their technological systems operate in compliance with the federal securities laws and with their own rules; and (2) provide certain notices and reports to the Commission to improve Commission oversight of securities market infrastructure.

Regulation SCI advances the goals of the national market system by enhancing the capacity, integrity, resiliency, availability, and security of the automated systems of entities important to the functioning of the U.S. securities markets, as well as reinforcing the requirement that such systems operate in compliance with the Exchange Act and rules and regulations thereunder, thus strengthening the infrastructure of the U.S. securities markets and improving its resilience when technological issues arise. In this respect, Regulation SCI establishes an updated and formalized regulatory framework, thereby helping to ensure more effective Commission oversight of such systems.

Respondents consist of national securities exchanges and associations, registered clearing agencies, exempt clearing agencies, plan processors, and alternative trading systems. There are currently 42 respondents, and the Commission staff estimates that, on average, 2 new respondents may become SCI entities each year, 1 of which would be a self-regulatory organization. Accordingly, Commission staff estimates that over the next three years there will be an average of 44 respondents per year.

Rule 1001(a) requires each SCI entity to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems and, for purposes of security standards, indirect SCI systems, have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity's operational capability and promote the maintenance of fair and orderly markets. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 1,388 hours (694 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 10,208 hours (232 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur, on average, an annual initial internal cost of compliance of $465,656 ($232,828 per respondent × 2 respondents), as well as outside legal or consulting costs of $94,000 ($47,000 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $3,426,632 ($77,878 per respondent × 44 respondents).

Rule 1001(b) requires each SCI entity to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems operate in a manner that complies with the Exchange Act and the rules and regulations thereunder and the entity's rules and governing documents, as applicable. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 540 hours (270 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 6,820 hours (175 hours per SRO respondent × 33 respondents + 95 hours per non-SRO respondent × 11 non-SRO respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $203,160 ($101,580 per respondent × 2 respondents), as well as outside legal or consulting costs of $54,000 ($27,000 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,155,780 ($86,230 per respondent × 44 respondents).

Rule 1001(c) requires each SCI entity to establish, maintain, and enforce reasonably designed written policies and procedures that include the criteria for identifying responsible SCI personnel, the designation and documentation of responsible SCI personnel, and escalation procedures to quickly inform responsible SCI personnel of potential SCI events. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 228 hours (114 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,716 hours (39 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $85,056 ($42,528 per respondent × 2 respondents), and all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $684,112 ($15,548 per respondent × 44 respondents).

Rule 1004 requires each SCI entity to establish standards for the designation of certain members or participants for BC/DR plan testing, to designate members or participants in accordance with these standards, to require participation by designated members or participants in such testing at least annually, and to coordinate such testing on an industry- or sector-wide basis with other SCI entities. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 720 hours (360 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents that are not plan processors will be, on average, 5,670 hours (135 hours per respondent × 42 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $214,596 ($107,298 per respondent × 2 respondents). In addition, all respondents that are not plan processors will incur, on average, an estimated ongoing annual internal cost of compliance of $1,508,850 ($35,925 per respondent × 42 respondents). In addition, the Commission staff estimates that the 2 plan processor respondents will incur an estimated ongoing annual cost of $108,000 for outside legal services ($54,000 per plan processor respondent × 2 respondents).

Rule 1002(b)(1) requires each SCI entity, upon any responsible SCI personnel having a reasonable basis to conclude that an SCI event has occurred, to notify the Commission immediately. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 352 hours (8 hours per respondent × 44 respondents). The Commission staff estimates that respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $108,394 ($2,463.25 per respondent × 44 respondents).

Rule 1002(b)(2) requires each SCI entity, within 24 hours of any responsible SCI personnel having a reasonable basis to conclude that the SCI event has occurred, to submit a written notification to the Commission pertaining to the SCI event on a good

faith, best efforts basis. These notifications are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 5,280 hours (120 hours per respondent × 44 respondents). The Commission staff estimates that respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $1,739,540 ($39,535 per respondent × 44 respondents).

Rule 1002(b)(3) requires each SCI entity to provide updates to the Commission pertaining to an SCI event on a regular basis, or at such frequency as reasonably requested by a representative of the Commission, until the SCI event is resolved and the SCI entity's investigation of the SCI event is closed. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 462 hours (10.5 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $144,309 ($3,279.75 per respondent × 44 respondents).

Rule 1002(b)(4) requires each SCI entity to submit written interim reports, as necessary, and a written final report regarding an SCI event to the Commission. These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 7,700 hours (175 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,686,860 ($61,065 per respondent × 44 respondents).

Rule 1002(b)(5) requires each SCI entity to submit to the Commission quarterly reports containing a summary description of any systems disruption or systems intrusion that has had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants. These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 7,040 hours (160 hours per respondent × 44 respondents). The Commission staff estimates that respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,378,728 ($54,062 per respondent × 44 respondents).

In addition, the Commission staff estimates that respondents will incur, on average, annual costs of $255,200 ($5,800 × 44 respondents) for outside legal advice in preparation of certain notifications required by Rule 1002(b).

Rule 1002(c)(1)(i) requires each SCI entity, promptly after any responsible SCI personnel has a reasonable basis to conclude that an SCI event (other than a systems intrusion) has occurred, to disseminate certain information to its members or participants. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 924 hours (21 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $604,230 ($13,732.50 per respondent × 44 respondents).

Rule 1002(c)(1)(ii) requires each SCI entity, when known, to promptly disseminate additional information about an SCI event (other than a systems intrusion) to its members or participants. Rule 1002(c)(1)(iii) requires each SCI entity to provide to its members or participants regular updates of any information required to be disseminated under Rules 1002(c)(1)(i) and (ii) until the SCI event is resolved. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 5,148 hours (117 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,033,856 ($46,224 per respondent × 44 respondents).

Rule 1002(c)(2) requires each SCI entity to disseminate certain information regarding a systems intrusion to its members or participants, and provides an exception when the SCI entity determines that dissemination of such information would likely compromise the security of its SCI systems or indirect SCI systems, or an investigation of the systems intrusion, and documents the reasons for such determination. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 440 hours (10 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $173,415 ($3,941.25 per respondent × 44 respondents).

In addition, the Commission staff estimates that all respondents will incur, on average, annual costs of $146,080 ($3,320 × 44 respondents) for outside legal advice in preparation of certain notifications required by Rule 1002(c).

Rule 1003(a)(1) requires each SCI entity to submit to the Commission quarterly reports describing completed, ongoing, and planned material changes to its SCI systems and security of indirect SCI systems during the prior, current, and subsequent calendar quarters. These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 22,000 hours (500 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $6,570,520 ($149,330 per respondent × 44 respondents).

Rule 1003(a)(2) requires each SCI entity to promptly submit a supplemental report notifying the Commission of a material error in or material omission from a report previously submitted under Rule 1003(a)(1). These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 660 hours (15 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $209,176 ($4,754 per respondent × 44 respondents).

Rule 1003(b)(1) requires each SCI entity to conduct an SCI review of its compliance with Regulation SCI not less than once each calendar year, with an exception for penetration test reviews, which are required to be conducted not less than once every three years. Rule 1003(b)(1) also provides an exception for assessments of SCI systems directly supporting market regulation or market surveillance, which are required to be conducted at a frequency based on the risk assessment conducted as part of the SCI review, but in no case less than once every three years. Rule 1003(b)(2) requires each SCI entity to submit a report of the SCI review to senior management no more than 30 calendar days after completion of the review. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 30,360 hours (690 hours per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $9,724,660 ($221,015 per respondent × 44 respondents).

Rule 1003(b)(3) requires each SCI entity to submit the report of the SCI review to the Commission and to its board of directors or the equivalent of such board, together with any response by senior management, within 60 calendar days after its submission to senior management. These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 44 hours (1 hour per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $18,128 ($412 per respondent × 44 respondents).

In addition, the Commission staff estimates that all respondents will incur, on average, annual costs of $2,200,000 ($50,000 × 44 respondents) for outside legal advice in preparation of certain notifications required by Rule 1003(b).

Rule 1006 requires each SCI entity, with a few exceptions, to file any notification, review, description, analysis, or report to the Commission required under Regulation SCI electronically on Form SCI through the EFFS. An SCI entity will submit to the Commission an EAUF to register each individual at the SCI entity who will access the EFFS system on behalf of the SCI entity. The Commission staff estimates that the total annual initial burden for 2 new respondents will be 0.6 hours (0.3 hours per respondent × 2 respondents), and the annual ongoing burden for all respondents will be, on average, 6.6 hours (0.15 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $248 ($124 per respondent × 2 respondents), as well as outside costs to obtain a digital ID of $100 ($50 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,728 ($62 per respondent × 44 respondents), as well as outside costs to obtain a digital ID of $2,200 ($50 per respondent × 44 respondents).

Rule 1002(a) requires each SCI entity, upon any responsible SCI personnel having a reasonable basis to conclude that an SCI event has occurred, to begin to take appropriate corrective action. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 228 hours (114 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,716 hours (39 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $85,056 ($42,528 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $677,468 ($15,397 per respondent × 44 respondents).

Rule 1003(a)(1) requires each SCI entity to establish reasonable written criteria for identifying a change to its SCI systems and the security of indirect SCI systems as material. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 228 hours (114 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,188 hours (27 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $85,056 ($42,528 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $507,584 ($11,536 per respondent × 44 respondents).

Regulation SCI also requires SCI entities to identify certain types of events and systems. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 396 hours (198 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,716 hours (39 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $139,412 ($69,706 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $677,468 ($15,397 per respondent × 44 respondents).

Rules 1005 and 1007 establish recordkeeping requirements for SCI entities other than SROs. The Commission staff estimates that for a new respondent that is not an SRO the average annual initial burden would be 170 hours (170 hours × 1 respondent), and the annual ongoing burden for all respondents will be, on average, 275 hours (25 hours × 11 respondents). The Commission staff estimates that a new respondent would incur an estimated internal initial internal cost of compliance of $11,370, as well as a one-time cost of $900 to modify existing recordkeeping systems. In addition, all respondents will incur, on average, an estimated ongoing internal cost of compliance of $18,975 ($1,725 × 11 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 12, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20277 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84098; File No. SR–NYSEARCA–2018–65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Options Rules To Make Certain Non-Substantive Changes and To Harmonize Certain Rules With Those of Its Affiliate, NYSE American LLC

September 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 31, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its options rules to make certain non-substantive changes and to harmonize certain rules with those of its affiliate, NYSE American LLC (''NYSE American''), to reduce unnecessary complexity and promote standardization. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its options rules to make certain non-substantive changes and to harmonize certain rules with those of its affiliate, NYSE American. The proposed amendments are designed to reduce unnecessary complexity within the Exchange's rules and to promote standardization and clarity amongst similar rules of the Exchange and its affiliate, NYSE American. Specifically, the Exchange proposes to:

- Make a ministerial, non-substantive change to Exchange Rule 6.17–O, Commentary .01.
- harmonize Exchange Rule 6.37–O, Obligations of Market Makers, with NYSE American Rule 925NY, Obligations of Market Makers, and make related changes to Exchange Rules 6.37A–O, 6.37B–O, and 6.37B–O;[4]
- delete the text of Exchange Rule 6.41–O, Market Maker Marketing Reports;
- harmonize Exchange Rule 6.43–O, Options Floor Broker Defined, with NYSE American Rule 930NY by replacing the term ''Professional Customer'' with ''Qualified Customer'';[5]
- amend Exchange Rule 6.47–O, Crossing Orders, to update the references to the current Order Protection Rule and harmonize it with NYSE American Rule 934NY;[6]
- harmonize Exchange Rule 6.67–O(d)(2)(A) with NYSE American Rule 955NY(d)(2)(A) by replacing an outdated reference to a required timestamp synchronized to the ''NIST Clock'' with a reference to the current operative Consolidated Audit Trail (''CAT'') clock synchronization rule;[7]
- harmonize Exchange Rule 6.69–O(b)(iii) with NYSE American Rule 957NY(b)(iii) by conforming the Exchange's rule governing the priority of complex orders in open outcry to its rule governing electronic complex orders;[8] and
- harmonize Exchange Rule 6.75–O, Priority and Order Allocation Procedures—Open Outcry, with NYSE American Rules 963NY(d).[9]

Each of these proposed changes are explained in detail below.

Exchange Rule 6.17–O. Verification of Compared Trades and Reconciliation of Uncompared Trades

The Exchange proposes to make ministerial, non-substantive changes to Exchange Rule 6.17–O, Commentary .01 to remove superfluous language. In particular, the Exchange proposes to amend the third paragraph of Commentary .01 of Exchange Rule 6.17–O to remove the duplicative phrase ''or accessible via telephone or email''. The proposed deletion of this phrase does not alter the meaning or application of Rule 6.17–O.

Exchange Rule 6.37–O, Obligations of Market Makers, and Exchange Rules 6.37A–O, 6.37B–O, and 6.37C–O

The Exchange proposes to harmonize the Market Maker quoting obligations set forth under Exchange Rule 6.37–O, Obligations of Market Makers, with NYSE American Rule 925NY, Obligations of Market Makers, and make related changes to Exchange Rules 6.37A–O, 6.37B–O, and 6.37C–O. Exchange Rule 6.37–O sets forth the continuous quoting obligations of Market Makers for options contracts to which they are appointed pursuant to Exchange Rule 6.35–O. The Exchange proposes to delete the text of Rule 6.37–O, except for paragraph (a), and replace it with the relevant text from NYSE American Rule 925NY.[10] The proposed rule change would not result in an easing of the quoting obligations in place on the Exchange. Instead, the proposed rule change would harmonize the Market Maker obligations across the Exchange and its affiliate, NYSE American, while requiring the same level of obligations. Harmonized rules would provide investors, as well as those that engage in market making activities on both the Exchange and NYSE American, with standardized obligations and consistent rules across both markets. A description of the proposed amendments are described below.

The Exchange notes that current Exchange Rule 6.37–O sets forth Market Maker obligations when quoting on the Trading Floor and Exchange Rule 6.37A–O sets forth Market Maker obligations when quoting on the NYSE Arca OX electronic trading system. Like NYSE American 925NY, the obligations under amended Exchange Rule 6.37–O would apply equally to Maker Makers on the Trading Floor and those quoting on the Exchange's electronic trading system. The Exchange also notes that the current text of Exchange Rule 6.37A–O is substantially similar to the text of NYSE American Rule 925NY, which the Exchange propose to adopt herein. Nonetheless, the proposed text would be more detailed than current Rule 6.37A–O by including detailed bid-ask differentials under paragraph (b)(4) as well as provisions governing leaves of absence under proposed Commentary .01. Therefore, the Exchange proposes to delete the text of Exchange Rule 6.37A–O and renumber Exchange Rules 6.37B–O as 6.37A–O and 6.37C–O as 6.37B–O. The Exchange also proposes to update various cross-references to these rules in Exchange Rules 6.33–O(a), 6.64–O(b)(D) and (E), 6.82–O(c)(4), 10.12(h) and (k), and 10.16(e)(2) to reflect the updated rule numbers.

Proposed Paragraph (b), Obligations in Appointed Classes. Paragraph (b) of Exchange Rule 6.37–O would continue

[4] The Exchange also proposes to update various cross-references to these rules throughout the rulebook to reflect the updated rule numbers.

[5] *See* Securities Exchange Act Release No. 81670 (September 21, 2017), 82 FR 45095 (September 27, 2017) (SR–NYSEAMER–2017–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update and Amend its Options Rules, as Described Herein, To Reduce Unnecessary Complexity and To Promote Standardization and Clarity).

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] The Exchange notes that paragraph (a) of Exchange Rule 6.37–O is identical to paragraph (a) of NYSE American Rule 925NY.

to impose the continuous quoting obligations that a Market Maker is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. Market Makers would continue to be expected to perform the following activities in the course of maintaining a fair and orderly market.

Proposed paragraphs (1) through (3) of Exchange Rule 6.37–O(b) would require Market Makers to: (1) Compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed; (2) make markets that will be honored for the number of contracts entered into the System in all series of options classes within the Market Maker's appointment; and (3) update market quotations in response to changed market conditions in all series of options classes within the Market Maker's appointment. Each of these provisions mirror NYSE American Rule 925NY(b)(1) through (3).

Current paragraphs (b)(1)(A) through (E) of Rule 6.37–O require that Market Maker bids and/or offers create differences of no more than: (A) .25 between the bid and the offer for each option contract for which the bid is less than $2, (B) .40 where the bid is $2 or more but does not exceed $5, (C) .50 where the bid is more than $5 but does not exceed $10, (D) .80 where the bid is more than $10 but does not exceed $20, and (E) $1 when the last bid is $20.01 or more, provided that two Trading Officials may establish differences other than the above for one or more series or classes of options. These provisions would be set forth under new paragraph (b)(4)(A) through (E) of Exchange Rule 6.37–O with one proposed change from the current Exchange rule. Current paragraph (b)(1)(E) of Rule 6.37–O requires that Market Maker bids and/or offers create differences of no more than $1 when the last bid is $20.01 or more, provided that two Trading Officials may establish differences other than the above for one or more series or classes of options. Proposed paragraph (b)(4)(E) of Exchange Rule 6.37–O would allow for one Trading Official, rather than two, to establish differences for one or more series or classes of options. The Exchange believes that requiring two Trading Officials to act in this scenario is unnecessary and allowing a single Trading Official to act would allow for a more efficient process, especially in cases where a decision must be made quickly in light of fast moving market events. The Exchange also notes that NYSE American Rule 925NY(b)(1)(E), the rule it seeks to harmonize Exchange Rule 6.37–O, allows for a single Trading Official to establish differences for one or more series or classes of options. Each of these provisions would mirror NYSE American Rule 925NY(b)(1)(A) through (E).

Current paragraph (b)(1)(F) of Rule 6.37–O states that a Trading Official may, with respect to options trading with a bid price less than $2, establish bid-ask differentials that are no more than $0.50 wide (''double-width'') when the primary market for the underlying security: (a) Reports a trade outside of its disseminated quote (including any Liquidity Quote); or (b) disseminates an inverted quote. The imposition of double-width relief must automatically terminate when the condition that necessitated the double-width relief (*i.e.,* condition (a) or (b)) is no longer present. Market Makers that have not automated this process may not avail themselves of the relief provided herein (*i.e.* they may not manually adjust prices). The Exchange notes that NYSE American Rule 925NY does not contain a similar provision and, therefore, the Exchange does not propose to carry over current paragraph (b)(1)(F) of Rule 6.37–O to the harmonized rule. Furthermore, the Exchange notes that this provision is not necessary because a Trading Official would have the ability to widen differences for one or more series or classes of options in such scenario pursuant to paragraph (b)(4)(E) of Exchange Rule 6.37–O discussed above.

Current paragraph (b)(1)(G) of Rule 6.37–O states that quotes given in open outcry may not be quoted with $5 widths and instead must comply with the legal width requirements specified in paragraph (b)(1)(A)–(F) of Rule 6.37–O. This requirement would be moved to paragraph (b)(5) of Rule 6.37–O and be rephrased to be harmonized with NYSE American Rule 925NY(b)(5) and would require that electronically submitted quotes to the System during Core Trading Hours may not have a difference exceeding $5 between the bid and offer regardless of the price of the bid. Paragraph (b)(5) of Rule 6.37–O would also provide that two Trading Officials may establish quote width differences other than as provided in paragraph (b)(5) of Rule 6.37–O for one or more option series. This is consistent with NYSE American Rule 925NY(b)(5).

The Exchange proposes to adopt the text of NYSE American Rule 925NY(b)(6) under proposed paragraph (b)(6) of Exchange Rule 6.37–O and require that, in response to a call for a market from a Floor Broker, a Market Maker may bid no more than $1 lower and/or offer no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard would not ordinarily apply if the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share has changed since the last preceding transaction for the particular option contract, in which event a Market Maker may then bid no lower than or offer no more than $1 plus the aggregate change in the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share since the time of the last preceding transaction for the particular option contract. This provision would apply from one day's close to the next day's opening and from one transaction to the next in intra-day transactions. With respect to inter-day transactions, this provision applies if the closing transaction occurred within one hour of the close and the opening transaction occurred within one hour after the opening. With respect to intra-day transactions, this provision applies to transactions occurring within one hour of one another. A Trading Official may waive the provisions of this paragraph in an index option when the primary underlying securities market for that index is not trading. Nothing in paragraph (b)(6) of Exchange Rule 6.37–O would alter the maximum bid/ask differentials established by paragraph (b)(4)–(5) of Rule 6.37–O discussed above.

Proposed Paragraph (c), Unusual Conditions—Opening Auction. The Exchange proposes to adopt the text of NYSE American Rule 925NY(c) under proposed paragraph (c) of Exchange Rule 6.37–O which would govern quote width differentials where a Trading Official declares an Unusual Market Condition during the opening auction. Current paragraph (b)(4) of Exchange Rule 6.37–O discusses where a Trading Official may declare a fast market and declare wider quote width differentials and these provisions would be substantially similar to proposed paragraph (c) of Exchange Rule 6.37–O. As proposed, if the Trading Official finds that it in the interest of maintaining a fair and orderly market so requires, he or she may declare that unusual market conditions exist in a particular issue and allow Market Makers in that issue to make auction bids and offers with spread differentials

of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under proposed Exchange Rule 6.37–O. In making such determinations to allow wider markets, the Trading Official should consider the following factors: (A) whether there is pending news, a news announcement or other special events; (B) whether the underlying security or Exchange-Traded Fund Share is trading outside of the bid or offer in such security then being disseminated; (C) whether OTP Holders and OTP Firms receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable.

Paragraph (c)(1) of Exchange Rule 6.37–O would further require that a Trading Official who declared the unusual market conditions to file a report with Exchange Operations setting forth the relief granted, the time and duration of such relief and the reasons behind declaring an unusual market condition. This provision would mirror NYSE American Rule 925NY(c)(1).

Proposed Paragraph (d), In Classes of Option Contracts Other Than Those to Which Appointed. Current Exchange Rule 6.37–O(c) governs a Market Maker's activities in options classes in which it has not been assigned pursuant to Exchange Rule 6.35–O. The Exchange proposes to renumber paragraph (c) of Exchange Rule 6.37–O as paragraph (d) and replace its text with that of NYSE American Rule 925NY(d). Proposed paragraph (d) of Exchange Rule 6.37–O would be substantially similar to current paragraph (c). As proposed, Market Makers would continue to be prohibited from engaging in transactions for an account in which they have an interest that are disproportionate in relation to, or in derogation of, the performance of their obligations as specified in Rule 6.37–O with respect to the classes in their appointment. Whenever Market Makers enter the trading crowd for a class of options in which they do not hold an appointment, they must fulfill the obligations established by Exchange Rule 6.37–O. In addition, when present anywhere on the Trading Floor, with regard to all securities traded on the Trading Floor, Market Makers are expected to undertake the obligations specified in paragraph (b) of Exchange Rule 6.37–O discussed above in response to a demand therefore from the Trading Official that the performance of such obligations by other Market Makers requires supplementation.

Current paragraphs (c)(2) and (3) also prohibit Market Makers from individually or as a group, intentionally or unintentionally, dominating the market in option contracts of a particular class and effecting purchases or sales on the floor of the Exchange except in a reasonable and orderly manner. These provisions would be renumbered as paragraphs (d)(1) and (2) under Exchange Rule 6.37–O and would mirror NYSE American Rule 925NY(d). The only difference from the current text is that paragraph (d)(2) of Exchange Rule 6.37–O would not specifically reference the floor of the Exchange as the rule would apply equally to all Market Makers, regardless of whether they are located on the floor of the Exchange or engage in market making electronically from a location off the Exchange floor.

Current paragraphs (c)(1) and (c)(4) of Exchange Rule 6.37–O would not be carried over as part of the new rule. The Exchange notes that these provision are outdated and are not included in the current NYSE American Rule 925NY to which the Exchange seeks to harmonize its Market Maker obligations. Paragraph (c)(1) of Exchange Rule 6.37–O currently prohibits Market Makers from congregating in a particular class of option contract. The purpose of this rule was to prevent Market Makers from dominating the market for an option when options were listed and traded verbally on a single exchange. Today, options are traded on numerous exchanges electronically significantly reducing the ability of a group of Market Makers on a single exchange from engaging in manipulative activity. Further, other Exchange rules address the manipulation concern that current paragraph (c)(1) of Rule 6.37–O was intended to address. For example, Exchange Rule 11.5 prohibits market manipulation on the Exchange generally. Exchange Rule 11.20(a)(1) also prohibits members, including Market Makers, from knowingly managing or financing a manipulative operation, which would include congregating in a particular class of securities to manipulate or dominate the market.

Paragraph (c)(4) of Exchange Rule 6.37–O states that whenever a Floor Broker enters a trading crowd and calls for a market in a particular option series, each Market Maker present at the trading post will be obligated to vocalize a two-sided, legal-width market (pursuant to former Exchange Rule 6.37–O(b)(1)) for a minimum of 10 contracts. Market Makers would continue to be required to make legal-wide markets in compliance with proposed Exchange Rule 6.37–O(b). However, Market Makers would no longer be required to quote for a least 10 contracts. The 10 contract requirement is antiquated and not necessary in a market environment where options are traded electronically on multiple exchanges. Furthermore, the 10 contract requirement is not included in the rules of NYSE American Rule 925NY or other options exchanges.[11] Current Exchange Rule 6.37B–O(b) and (c) (proposed to be renumbered as Exchange Rule 6.37A–O) would require that Market Maker quotations meet the legal quote width requirements of proposed Exchange Rule 6.37–O.

Paragraph (c)(4) of Exchange Rule 6.37–O states that its obligation to provide a legal-width market only applies to: (A) Market Makers who have executed a transaction in the issue, but not those who have been assigned contracts by the Trading Official pursuant to Commentary .05, on the day of the Floor Broker's call for a market or on the previous business day; (B) option issues that are ranked in the 120 most actively traded equity options based on the total number of contracts traded nationally as reported by the Options Clearing Corporation (for each current month, the Exchange's determination of whether an equity option ranks in the top 120 most active issues is based on volume statistics for the one month of trading activity that occurred two months prior to the current month); (C) non-broker-dealer orders; and (D) series not designated as LEAPS (pursuant to Exchange Rule 6.4). With respect to (A) and (B) above, the provision to provide a legal-width market under proposed Exchange Rule 6.37–O(b) would apply to all options to which a Market Maker is appointed and would not be limited. With respect to (C) above regarding providing a quote to non-broker-dealer orders, paragraph (e) of Exchange Rule 6.37B–O (proposed to be renumbered as Exchange Rule 6.37A–O) would continue to state that ''[a] Market Maker shall be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations under Rule 6.86–O.'' This rule would preclude a Market Maker from not honoring its quotation against non-broker-dealer orders. Therefore, current paragraph (c)(4)(C) is not necessary to be included in proposed Rule 6.37–O(c). Lastly, current paragraph (D) states that the paragraph (c)(4) would not apply to series designated as LEAPS. The Exchange notes that current paragraph (b) and (c) of Exchange Rule 6.37B–O (proposed to

[11] *See e.g.,* Cboe Exchange, Inc. Rule 8.7 and Nasdaq Options Rules, Chapter VII, Sections 5 and 6 (no including a requirement that a market maker's quotation be for at least 10 contracts).

be renumbered as Exchange Rule 6.37A–O) set forth Market Maker quoting obligation and Commentary .01 of that rule states that those quoting obligation ''shall not apply to Market Makers with respect to adjusted option series, and series with a time to expiration of nine months or greater'', *i.e.,* LEAPS. Therefore, as amended, the quoting obligations set forth in proposed Rule 6.37–O would continue to not apply to LEAPS.

Deletion of Current Paragraph (d), In Person Requirements for Market Makers. The Exchange proposes to remove the text of current paragraph (d) of Exchange Rule 6.37–O because no similar provision is included in NYSE American Rule 925NY to which the Exchange seeks to harmonize its Market Maker obligations. Furthermore, this provision is unnecessary as it conflicts with more stringent requirements set forth in current Exchange Rule 6.35–O described below. Current Exchange Rule 6.37–O(d) sets forth in-person requirements for Market Makers and requires that an adequate number of Market Makers be available throughout each trading session. Exchange Rule 6.37–O(d) requires the following minimum in-person trading requirements: At least 60% of a Market Maker's transactions must be executed by the Market Maker in-person or through an approved facility of the Exchange. Orders executed for a Market Maker through a Floor Broker will not be credited toward the 60% requirement. A failure to comply with this 60% in-person trading requirement may result in a fine pursuant to Rule 10.12; however, if aggravating circumstances are present, formal disciplinary action may be taken pursuant to Rule 10.4. Exchange Rule 6.37–O(d) further states that in order to assure compliance with the spirit and intent of the 60% requirement, the Exchange may review each of the Market Maker's transactions used to meet the 60% requirement.

The Exchange does not proposes to include the text of current paragraph (d) to Exchange Rule 6.37–O as this requirement conflicts with Exchange Rule 6.35–O(i), which sets forth a higher standard and applies to Market Maker activity both on the floor and conducted electronically. Specifically, paragraph (i) of Exchange Rule 6.35–O requires that at least 75% of the trading activity of a Market Maker (measured in terms of contract volume per quarter) must be in classes within the Market Maker's appointment. Paragraph (j) of Exchange Rule 6.35–O set forth how the Exchange would calculate whether the Market Maker satisfied the requirements of paragraph (i) and sets forth the penalties for non-compliance.

Proposed (e), Prohibited Practices and Procedures. The Exchange proposes to retain the text of current paragraph (e) of Exchange Rule 6.37–O. The Exchange notes that the text of current Exchange Rule 6.37(e) is identical to NYSE American Rule 925NY(e). Any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the spreads or option prices at which they will trade that issue would continue to be prohibited. In addition, any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue would also continue to be prohibited.

Proposed Paragraph (f). Exchange Rule 6.37–O(f) discusses when members of a trading crowd may act collectively in response to a request for a market. The Exchange proposes to replace the current text of paragraph (f) to Exchange Rule 6.37–O with the text of NYSE American Rule 925NY(f). But for minor differences explained below, the revised text is substantially similar to the existing text of Exchange Rule 6.37–O(f). The proposed amendment would harmonize the rule with that of NYSE American Rule 925NY(f). Current paragraph (f) of Rule 6.37–O states that notwithstanding the prohibitions set forth in Subsection (e), the LMM and members of the trading crowd are permitted to act collectively as set forth below: (1) The obligation of Market Makers to make competitive markets does not preclude the LMM and members of the trading crowd from making a collective response to a request for a market, provided the OTP Holder or OTP Firm representing the order requests such a response in order to fill a large order (for purposes of this rule, a large order is an order for a number of contracts that is greater than the eligible order size for automatic execution pursuant to Rule 6.87) and; (2) in conjunction with their obligations as a responsible broker or dealer pursuant to Exchange Rule 6.86–O and Rule 602 of Regulation NMS, the Firm Quote Rule,[12] the LMM and Market Makers in the trading crowd may collectively agree to the best bid, best offer and aggregate quotation size required to be communicated to the Exchange pursuant to Rule 6.86(c).

Although the language proposed in Exchange Rule 6.37–O would differ from that currently set forth in Rule 6.37–O(f), the application and meaning of the rule would be the same. Like as set forth under current paragraph (f)(1) of Rule 6.37–O, Market Makers in a trading crowd would continue to be able to discuss a request for a market that is greater than the disseminated size for that option class, for the purpose of making a single bid (offer) based upon the aggregate of individual bids (offers) by members in the trading crowd, but only when the member representing the order asks for a single bid (offer). Also, like as required in current paragraph (f)(1) of Rule 6.37–O, proposed paragraph (f) to Rule 6.37–O would continue to require that such bids or offers are firm quotes and each member of the trading crowd participating in the bid (offer) shall be obligated to fulfill his portion of the single bid (offer) at the single price. Such bids and offers would, therefore, continue to be required to comply with Exchange Rule 6.86–O, Firm Quotes, and Rule 602 of Regulation NMS, even though those rules are not specifically mentioned by number. Market Maker quotations must comply with their firm quote obligations set forth in Exchange Rule 6.86–O and Rule 602 of Regulations NMS regardless of whether those rules are specifically mentioned in proposed Exchange Rule 6.37–O(f). Furthermore, paragraph (e) of Exchange Rule 6.37B–O (proposed to be renumbered as Exchange Rule 6.37A–O) would continue to state that ''[a] Market Maker shall be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations under Rule 6.86–O.'' The text of proposed paragraph (f) of Rule 6.37–O would also mirror the text of NYSE American Rule 925NY(f).

Proposed paragraph (f) of Rule 6.37–O would state that the obligation of Market Makers to make competitive markets does not preclude Market Makers in a trading crowd from discussing a request for a market that is greater than the disseminated size for that option class, for the purpose of making a single bid (offer) based upon the aggregate of individual bids (offers) by members in the trading crowd, but only when the member representing the order asks for a single bid (offer). Whenever a single bid (offer) pursuant to this paragraph is made, such bid (offer) shall be a firm quote and each member of the trading crowd participating in the bid (offer) shall be obligated to fulfill his portion of the single bid (offer) at the single price.

Commentary. First, the Exchange proposes to harmonize the leave of absence requirements under current Commentary .07 to Exchange Rule 6.37–

[12] 17 CFR 242.602. The Exchange notes that Rule 11Ac1–1 under the Act has been renumbered as Rule 602 of Regulation NMS.

O with that of Commentary .01 to NYSE American Rule 925NY. Specifically, the Exchange proposes to adopt the text of Commentary .01 to NYSE American Rule 925NY as Commentary .01 to Exchange Rule 6.37–O. As amended, like current Commentary .07(a), (b), and (c) to Exchange Rule 6.37–O, Commentary .01(a), (b), and (c) would allow Market Makers to request leaves of absence when they plan to be away from the floor or temporarily withdraw from submitting quotations into the System for periods in excess of two weeks during a calendar quarter. Requests for leaves of absence must continue to be submitted in writing to the Exchange prior to the commencement of the intended leave. Lastly, while on leave, Market Makers will continue to not be permitted to make opening transactions in Exchange listed options, in their Market Maker accounts, through the use of a Floor Brokers, except as provided in Exchange Rule 6.32–O, Commentary .01. The Exchange does not proposes to retain the paragraph (d) of Commentary .07 to Exchange Rule 6.37–O under new Commentary .01 as that provision is outdated and is not part of NYSE American Rule 925NY to which the Exchange seeks to harmonize.

Furthermore, the Exchange does not propose to retain the remaining provisions, Commentary .01 through .06 and .08 through .09 of the Commentary to Exchange Rule 6.37–O. These provisions are outdated for the reasons discussed below, and not included in the current NYSE American Rule 925NY to which the Exchange seeks to harmonize its Market Maker obligations.

Current Commentary .01 states that the limitations of Rule 6.37–O(b)(2) should not be carried over from one day to the next, and therefore are not applicable to the Exchange's opening. The Exchange notes that current paragraph (b)(2) to Rule 6.37–O simply states ''Reserved'' and, therefore, includes no limitations that the rule would need to specify would not be carried over to the next trading day or apply to the Exchange's opening process. Not retaining this provision in the amended rule would remove potentially confusing text referencing an outdated provision in the Exchange's rules, thereby ensuring the Exchange's rules are clear and easily understood. Further, this provisions is not included in the current NYSE American Rule 925NY to which the Exchange seeks to harmonize its Market Maker obligations.

Current Commentary .02 states that the bid-ask differentials as stated in paragraph (b)(1) of Rule 6.37–O shall apply to all option series open for trading in each option class. This provision is not necessary as the rule, by its terms, applies to all Market Makers appointed in an options class on the Exchange.[13] This provision is also not included in the current NYSE American Rule 925NY.

Current Commentary .03 states that when a Market Maker displays a market on the screen that is the best market in that crowd, the Market Maker is obligated to ensure that its market is removed from the screen when the Market Maker leaves the crowd. Current Commentary .03 is applicable only to Market Maker activity in a floor-based market. In addition, Market Makers who post a quotation, whether in the crowd or not, are required to comply with their firm quote obligations under Exchange Rule 6.86–O and Rule 602(b) of Regulation NMS. If the Market Maker leaves the crowd, it is up to them to remove their quote or to honor any executions that occur while their quote remains posted. Further, this provision is not included in the current NYSE American Rule 925NY.

Current Commentary .04 states that the obligations of a Market Maker with respect to those classes of option contracts to which he holds an appointment, pursuant to Rule 6.35–O, shall take precedence over his other Market Maker obligations. This provision is not included in the current NYSE American Rule 925NY. This provision is also not necessary as proposed Rule 6.37–O(b) would include all of a Market Makers obligations for options classes for which they are appointed, and a Market Maker would be required to satisfy those obligations regardless of whether that Market Maker is engaged in other market making activities. Furthermore, proposed paragraph (d) to Exchange Rule 6.37–O states that ''[w]ith respect to classes of option contracts outside of their appointment, Market Makers should not engage in transactions for an account in which they have an interest that are disproportionate in relation to, or in derogation of, the performance of their obligations as specified in this Rule with respect to the classes in their appointment.''

Current Commentary .05 states that whenever a Floor Broker enters a trading crowd and calls for a market in any class and series at that post, each Market Maker present at the post where the option is traded is obligated, at a minimum, to make a market for one contract except as provided for in Rule 6.37–O(b)(5) and Rule 6.37–O(c)(4), at the established price. In addition, the Exchange may determine that Market Makers in trading crowds shall increase the depth of their markets as set forth in Options Floor Procedure Advice B–12. In the event a Floor Broker is unable to satisfy his order from bids and offers given in the crowd, the Trading Official may assign one contract to every Market Maker present within the primary zone to assist the Floor Broker in satisfying his order. If a Market Maker at the post either bids lower or offers higher than the established market, such Market Maker shall be obligated to trade one contract at the price quoted by the Market Maker. This provision is not necessary and is not included in the current NYSE American Rule 925NY. As amended, proposed Rule 6.37–O(b)(2) would require a Market Maker to make markets that will be honored for the number of contracts entered into the System in all series of options classes within the Market Maker's appointment.

Current Commentary .06 states that the maintenance of a fair and orderly market has been determined to be impaired in instances where a Market Maker refuses to honor a market quotation that has just been given, in response to a request for a market. This provision is not necessary as the proposed rule requires Market Makers to enter two-sided quotations in the options classes that they are appointed and to honor those quotations.[14] This provision is also not included in the current NYSE American Rule 925NY.

Current Commentary .08 states that a Market Maker may be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations under Rule 6.86–O. The Exchange does not proposes to retain this provision as a similar provision is not included in the current NYSE American Rule 925NY. In addition, the obligation set forth in Commentary .08 are redundant with Market Maker's obligation to not only comply with the Exchange's firm quote obligations set forth under Exchange Rule 6.86–O, but also their obligations to comply with Rule 602 of Regulation NMS. Moreover, a Market Maker's firm quote obligations are also discussed in proposed paragraph (b)(2) to Exchange Rule 6.37–O which requires Market Makers to make markets that will be honored for the number of contracts entered into the System.

Current Commentary .09 states that the Exchange or its authorized agent may calculate bids and asks for various indices for the sole purpose of

[13] *See* proposed Exchange Rule 6.37–O(b) and (b)(4).

[14] *See* proposed paragraphs (b) and (f) of Exchange Rule 6.37–O.

determining permissible bid/ask differentials on options on these indices. These values will be calculated by determining the weighted average of the bids and asks for the components of the corresponding index. These bids and asks will be disseminated by the Exchange at least every fifteen (15) seconds during the trading day solely for the purpose of determining the permissible bid/ask differential that Market Makers may quote on an in-the-money option on the indices. For in-the-money series in index options where the calculated bid/ask differential is wider than the applicable differential set out in subparagraph (b)(1) of Rule 6.37–O, the bid/ask differential in the index option series may be as wide as the calculated bid/ask differential in the underlying index. The Exchange will not make a market in the basket of stock comprising the indices and is not guaranteeing the accuracy or the availability of the bid/ask values. This provision is not necessary as the Exchange no longer performs the calculations described in the Commentary .09. Removing this provision would, therefore, more accurately describe the operation of the system in the Exchange's rules. A similar provision is also not included in the current NYSE American Rule 925NY.

Exchange Rule 6.41–O, Market Maker Marketing Reports

The Exchange proposes to delete the text of Exchange Rule 6.41–O, entitled Market Maker Marketing Reports. Exchange Rule 6.41–O states that the Exchange will provide its Market Makers with statistical reports designed to measure trading volume and participation in trading activity in each option issue traded on the Exchange. The reports are to provide monthly trading information that identifies, by order flow provider, the issue and number of contracts traded, the Lead Market Maker post where the issue is traded, the contra and executing broker symbols, and whether the trade was executed through the Exchange's OX electronic trading system or manually in the trading crowd. Under its rules, the Exchange currently provides other reports, including reports related to compared trades.[15] However, the Exchange no longer provides the report described in Exchange Rule 6.41–O to Market Makers, no Market Maker has requested such report, no other rule or regulation requires the Exchange to provide such report, and that the rules of its affiliate, NYSE American, do not include a similar provision. Therefore, the Exchange proposes to delete the text of Exchange Rule 6.41–O to avoid potential confusion regarding the specific reports produced by the Exchange. The Exchange also proposes to delete a cross-reference to Exchange Rule 6.41–O in Exchange Rule 11.16, Books and Records.

Exchange Rule 6.43–O, Options Floor Broker Defined

The Exchange proposes to amend 6.43–O(b)(1) and (2) to replace the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' in connection with the limited public business that qualified Floor Brokers and their Floor Clerks may conduct. Rule 6.43–O(b) defines both the permissible conduct of a limited public business and defines the term ''Professional Customer'', for purposes of Rule 6.43–O(b).[16] Exchange Rule 6.1A–O(4A) also defines the term ''Professional Customer'', but does so differently.[17] To avoid unnecessary complexity or confusion concerning the duplicate definitions of ''Professional Customer'', the Exchange proposes to amend 6.43–O(b) to replace the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' in connection with the limited public business, and to limit the use of ''Qualified Customer'' to Rule 6.43–O(b). This proposed change would also harmonize NYSE Arca Rule 6.43–O(b)(1) and (2) with NYSE American Rules 930NY(b)(1) and (2).[18]

Exchange Rule 6.47–O, ''Crossing'' Orders—OX

The Exchange proposes to amend Rule 6.47–O, its crossing rule, by replacing outdated references to the requirement that execution prices ''be equal to or better than the NBBO'' with updated cross-references to the Rule 6.94–O, the current plenary Order Protection Rule. In addition, in connection with non-facilitation (regular way) crosses, facilitation procedures, crossing of solicited orders, and customer-to-customer crosses, the Exchange proposes to delete from Rules 6.47–O(a)(3), (b)(5), (c)(3), and (e)(3) the sentences that provide that ''[t]he orders will be cancelled or posted in the Book if an execution would take place at a price that is inferior to the NBBO''. Exchange Rule 6.94–O governs such situations, and the orders will not be cancelled or posted but would trade through in accord with the exemptions in Exchange Rule 6.94–O. This proposed change would also harmonize NYSE Arca Rule 6.47–O with NYSE American Rules 934NY.[19]

Exchange Rule 6.67–O, Order Format and Entry Requirements

The Exchange proposes to amend Rule 6.67–O(d)(2)(A) to replace an outdated reference to require timestamps be synchronized to the ''NIST Clock'' with a reference to Rule 11.6820, the current Consolidated Audit Trail (''CAT'') clock synchronization rule. Specifically, in connection with Rule 6.67–O(d)(2)(A), which governs contingency reporting procedures when an exception to the Electronic Order Capture System (''EOC'') applies, the Exchange proposes to delete an outdated reference to ''(a timestamp synchronized with the National Institute of Standards and Technology Atomic Clock in Boulder Colorado 'NIST Clock' will be available at all OTP Holder and OTP Firm booths and trading posts'' and replace it with a requirement that all order events must conform to the requirements of Rule 11.6820. For further clarity, the Exchange also proposes to delete ''immediately'' from the text of the rule because Rule 11.6820 sets the operative standard. This proposed change would also harmonize NYSE Arca Rule 6.67–O(d)(2)(A) with NYSE American Rules 955NY(d)(2)(A).[20]

Exchange Rule 6.69–O, Reporting Duties

The Exchange proposes to amend Exchange Rule 6.69–O(b)(iii) to harmonize it with NYSE American Rule

[15] *See* Exchange Rules 6.18–O, 6.19–O, and 6.21–O.

[16] Exchange Rule 6.43(b)(2) defines ''Professional Customer'' as ''a bank; trust company; insurance company; investment trust; a state or political subdivision thereof; charitable or nonprofit educational institution regulated under the laws of the United States, or any state, or pension or profit sharing plan subject to ERISA or of any agency of the United States as of a state or political subdivision thereof; or any person (other than a natural person) who has, or who has under management, net tangible assets of at least sixteen million dollars.''

[17] The definition of ''Professional Customer'' in Rule 6.1A–O(4A), which is broader than the definition in Rule 6.43–O(b)(2), defines a ''Professional Customer'' as an individual or organization that is not a Broker/Dealer in securities and places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Rule 6.1A–O(4A) also defines the treatment of a Professional Customer under various Exchange rules *except* Rule 6.43–O(b), and defines how to calculate the number of Professional Customers orders in connection with different order types.

[18] *See* Securities Exchange Act Release No. 81670 (September 21, 2017), 82 FR 45095 (September 27, 2017) (SR–NYSEAMER–2017–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update and Amend its Options Rules, as Described Herein, To Reduce Unnecessary Complexity and To Promote Standardization and Clarity).

[19] *Id.*

[20] *Id.*

957NY(b)(iii). Exchange Rule 6.69–O(b) governs reporting of transactions on the options floor and subparagraph (iii) is specific to Complex Orders. In particular, subparagraph (b)(iii) of Rule 6.69–O currently states that for Complex Order transactions, ''between two Floor Brokers or two Market Makers, the party responsible for reporting the transaction shall be the OTP Holder that first initiated the transaction.'' The Exchange proposes to delete this language and replace it with ''where the transaction is made up of both buy and sell orders and priced on a net debit/credit basis, the seller shall be determined to be the OTP Holder participating on the 'debit' side of the trade.'' Doing so would harmonize the reporting requirements for Complex Orders under Rule 6.69–O(b)(iii) with those for complex orders under NYSE American Rule 957NY(b)(iii),[21] thereby providing consistent reporting obligations across the Exchange and its affiliate.

Exchange Rule 6.75–O, Priority and Order Allocation Procedures—Open Outcry

The Exchange proposes to conform Rule 6.75–O governing the priority of Complex Orders [22] in open outcry to its Rule 6.91–O governing Electronic Complex Orders.[23] Rule 6.91–O(a)(1) governs the priority of Electronic Complex Orders [24] in the Consolidated Book and states that ''Electronic Complex Orders in the Consolidated Book shall be ranked according to price/time priority based on the *total or net debit or credit* and the time of entry of the order'' (*emphasis added*).[25] Specifically, the Exchange proposes to conform Rule 6.75–O(g) to Rule 6.91–O(a)(1) by amending Rule 6.75–O(g) to provide that a Complex Order and Stock/Complex Orders may be executed at a ''total or'' net debit or credit price. The proposed change would, therefore, not result in any change to the manner in which Complex Orders are handled under the Exchange's rules. This proposed change would also harmonize Exchange Rule 6.75–O(g) with NYSE American Rule 963NY(d).[26]

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b) [27] of the Act, in general, and furthers the objectives of Section 6(b)(5),[28] in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Specifically, the Exchange believes that conforming and harmonizing its rules to the rules of an affiliated exchange governing the same subject matter, updating its rules by harmonizing its Market Maker obligation with its affiliate, NYSE American, deleting outdated and updating rule cross-references, eliminating extraneous or redundant text, and therefore potentially confusing or ambiguous language, would remove impediments to and perfect a national market system by simplifying and reducing the complexity of its rules and regulatory requirements. The Exchange notes that it and its affiliate, NYSE American, operate in a similar manner and consistent rules across the Exchange and NYSE American would reduce the likelihood of potential investor confusion. Furthermore, the proposed rule change would provide for standardized rules and a consistent set of obligations for common members as well as those members that are engaged in market making activities on both the Exchange and NYSE American. The Exchange also believes that these proposed amendments would be consistent with the public interest and the protection of investors because investors would benefit from the proposal to harmonize, simplify, update and clarify the rules discussed herein. Further, the Exchange believes that the proposed rule change would benefit investors by improving the transparency and clarity of the Exchange's rules.

In particular, the Exchange believes that by updating and conforming its rules governing Market Maker obligations to the rules of NYSE American, its affiliated exchange, removes impediments to and perfects the mechanism of a free and open market and a national market system by providing consistent, standardized rules governing Market Makers across both the Exchange and its affiliate. It should also aid those firms that engage in market making activity on both the Exchange and NYSE American with identical obligations, thereby aiding those firms in complying with the Exchange's rules by providing a harmonized set of regulatory obligations.

Furthermore, by removing extraneous language from Exchange Rule 6.17–O, Commentary .01, deleting outdated text under Exchange Rule 6.41–O regarding a report no longer produced to Market Makers by the Exchange, replacing the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' under Exchange Rule 6.43–O in connection with the limited public business that qualified Floor Brokers and their Floor Clerks may conduct, by harmonizing Exchange Rule 6.47–O, its crossing rule, with NYSE American Rule 934NY by replacing outdated and potentially ambiguous references to the NBBO with cross-references to the current plenary Order Protection Rule, by updating and clarifying Exchange Rule 6.67–O governing its order format and system entry requirements by replacing an outdated reference with a reference to the current operative CAT time synchronization rule, and by conforming Exchange Rule 6.75–O governing the priority of complex orders in open outcry to its rule governing Electronic Complex Orders, would also promote just and equitable principles of trade, would remove impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, would help to protect investors and the public interest by providing transparency as to which rules are operable, and by reducing potential confusion that may result from having outdated or redundant rules or cross-references in the Exchange's rulebook. Lastly, the Exchange notes that the proposed changes to Exchange Rules 6.37–O, 6.43–O(b), 6.47–O, 6.67–O(d)(2)(A), 6.69–O(b)(iii), and 6.75–O(g) are based on the rules of its affiliate, NYSE American.[29] The Exchange further believes that the proposed rule changes would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more

[21] *Id.*

[22] *See* NYSE Arca Rule 6.62–O(e).

[23] *See* NYSE Arca Rule 6.91–O.

[24] An ''Electronic Complex Order'' means ''any Complex Order as defined in Rule 6.62–O(e) or any Stock/Option Order or Stock/Complex Order as defined in Rule 6.62–O(h) that is entered into the NYSE Arca System (the 'System').'' *Id.*

[25] *See* Exchange Rule 6.91–O(a)(1).

[26] Securities Exchange Act Release No. 81670 (September 21, 2017), 82 FR 45095 (September 27, 2017) (SR–NYSEAMER–2017–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update and Amend its Options Rules, as Described Herein, To Reduce Unnecessary Complexity and To Promote Standardization and Clarity).

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See, e.g.,* NYSE American Rules 925NY, 930NY, 934NY, 955NY, 957NY, and 936NY. *See also, e.g.,* Securities Exchange Act Release No. 81670 (September 21, 2017), 82 FR 45095 (September 27, 2017) (SR–NYSEAMER–2017–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update and Amend its Options Rules, as Described Herein, To Reduce Unnecessary Complexity and To Promote Standardization and Clarity).

easily navigate and understand the Exchange's rulebook, thereby avoiding potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue or attract additional order flow to the Exchange. Rather, these changes would update, remove, and clarify outdated cross-references and definitions, and redundant language, and also conform the Exchange's rules and definitions to the rules of an affiliated exchange, thereby reducing potential confusion and making the Exchange's rules easier to understand and navigate. The Exchange notes that it and its affiliate, NYSE American, operate in a similar manner and consistent rules across the Exchange and NYSE American would reduce the likelihood of potential investor confusion. Therefore, the proposed rule change is not intended to impose a burden on competition but rather provide for standardized rules and a consistent set of obligations for common members as well as those members that are engaged in market making activities on both the Exchange and NYSE American.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [30] and Rule 19b–4(f)(6) thereunder.[31] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

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) [32] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2018–65 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–NYSEARCA–2018–65. 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–NYSEARCA–2018–65 and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20193 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

[30] 15 U.S.C. 78s(b)(3)(A)(iii).

[31] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[32] 15 U.S.C. 78s(b)(2)(B).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Regulation 14A (Commission Rules 14a–1 through 14a–21 and Schedule 14A), SEC File No. 270–056, OMB Control No. 3235–0059

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 14(a) of the Securities Exchange Act of 1934 (the ''Exchange Act'') operates to make it unlawful for a company with a class of securities registered pursuant to Section 12 of the Exchange Act to solicit proxies in contravention of such rules and regulations as the Commission has prescribed as necessary or appropriate in the public interest or for the protection of investors. The Commission

has promulgated Regulation 14A to regulate the solicitation of proxies or consents. Regulation 14A (Exchange Act Rules 14a–1 through 14a–21 and Schedule 14A) (17 CFR 240.14a–1 through 240.14a–21 and 240.14a–101) sets forth the requirements for the dissemination, content and filing of proxy or consent solicitation materials in connection with annual or other meetings of holders of a Section 12-registered class of securities. We estimate that Schedule 14A takes approximately 130.4052 hours per response and will be filed by approximately 5,586 issuers annually. In addition, we estimate that 75% of the 130.4052 hours per response (97.8035 hours) is prepared by the issuer for an annual reporting burden of 546,333 hours (97.89 hours per response × 5,586 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 12, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20280 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84100; File No. SR–NYSE–2018–39]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Price List To Amend the Threshold Levels and Rebate Amounts Payable Under the Liquidity Provider Incentive Program, and To Amend the Rebate Amount Payable Under the Agency Order Incentive Program

September 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 31, 2018, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to amend the threshold levels and rebate amounts payable under the Liquidity Provider Incentive Program, and amend the rebate amount payable under the Agency Order Incentive Program. The Exchange proposes to implement the fee changes effective September 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to amend the threshold levels and rebate amounts payable under the Liquidity Provider Incentive Program, and amend the rebate amount payable under the Agency Order Incentive Program. The Exchange proposes to implement the fee changes effective September 1, 2018.

Liquidity Provider Incentive Program

Pursuant to the Liquidity Provider Incentive Program,[4] a User [5] can qualify for a daily rebate based on the number of qualifying CUSIPs [6] on the NYSE Bonds Book for which a Unique User [7] meets prescribed quoting requirements. The Exchange proposes to amend the threshold levels and rebate amounts payable under the Liquidity Provider Incentive Program to encourage participants to meet the quoting requirements in a greater number of CUSIPs.

Currently, the daily rebate amount is tiered based on the number of qualifying CUSIPs that meet quoting requirements, as follows:

Number of qualifying CUSIPs	Daily rebate
400–599	$500

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release Nos. 77591 (April 12, 2016), 81 FR 22656(April 18, 2016) (SR–NYSE–2016–26); 77812 (May 11, 2016), 81 FR 30594 (May 17, 2016) (SR–NYSE–2016–34); 79210 (November 1, 2016), 81 FR 78213 (November 7, 2016) (SR–NYSE–2016–68); and 80934 (June 15, 2017), 82 FR 28173 (June 20, 2017) (SR–NYSE–2017–27).

[5] A User is any Member or Member Organization, Sponsored Participant, or Authorized Trader that is authorized to access NYSE Bonds. *See* Rule 86(b)(2)(M). For purposes of the Liquidity Provider Incentive Program, a User is a Member or Member Organization that is authorized to access NYSE Bonds.

[6] CUSIP stands for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most financial instruments, including: stocks of all registered U.S. and Canadian companies, commercial paper, and U.S. government and municipal bonds. The CUSIP system—owned by the American Bankers Association and managed by Standard & Poor's—facilitates the clearance and settlement process of securities. *See http://www.sec.gov/answers/cusip.htm.*

[7] For purposes of the Liquidity Provider Incentive Program, the term 'Unique User' means a User, a trading desk of a User, or a customer of a User, on whose behalf a Member or Member Organization enters quotes or orders under a Unique User ID that such User requests from and is provided by the Exchange. *See* Securities Exchange Act Release No. 80934 (June 15, 2017), 82 FR 28173 (June 20, 2017) (SR–NYSE–2017–27).

Number of qualifying CUSIPs	Daily rebate
600–799	1,000
800 or more	1,500

The Exchange now proposes to amend the current tiers by: (1) Adjusting the third tier (800 or more CUSIPs) so that it becomes 800–999 CUSIPs; and (2) adopting a new tier for 1000 or more CUSIPs with a corresponding daily rebate of $2,000. With the proposed changes to the tiers, the Exchange is attempting to strike the right balance between the number of qualifying CUSIPs and its corresponding rebate to ensure that the incentive program achieves its intended purpose of attracting liquidity in a greater number of CUSIPs to NYSE Bonds.

With the proposed amended tiers, the CUSIP threshold and corresponding rebate would be as follows:

Number of qualifying CUSIPs	Daily rebate
400–599	$500
600–799	1,000
800–999	1,500
1,000 or more	2,000

The Exchange is not proposing any change to the Liquidity Provider Incentive Program other than to add an additional tier and a corresponding rebate for the new tier.

Agency Order Incentive Program

Pursuant to the Agency Order Incentive Program,[8] the Exchange currently provides a monthly rebate of $4,000 to a User that submits an average of 400 resting limit orders of any size per trading day during the month and that are submitted as Agency Orders [9] by the User. In order to further incentivize Users to provide displayed liquidity on NYSE Bonds, the Exchange proposes to provide an increased monthly rebate of $10,000 to Users that meet the requirements of the incentive program. The proposed increased rebate would be applicable for a limited period of time, from September 2018 to December 2018. In the absence of a proposed rule change filed by the Exchange, the monthly rebate payable under the Agency Order Incentive Program would revert back to $4,000 per month beginning January 2019.

The Exchange is not proposing any change to the Agency Order Incentive Program other than to change the amount of the rebate for a period of four months, from September 2018 to December 2018.

The proposed rule change is intended to provide Users with a greater incentive to transact on NYSE Bonds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes its proposed rebates pursuant to a tiered pricing structure is reasonable, equitable and non-discriminatory. The Exchange's proposal to add a new tier is reasonable as it is designed to encourage participants to provide liquidity in a greater number of CUSIPs on NYSE Bonds in order to benefit by receiving a larger daily rebate that was previously not available. The Exchange believes that with the proposed amended tiers, which provides for additional volume thresholds, Users that meet prescribed quoting requirements in a varying number of CUSIPs would qualify for rebates. The purpose of the Liquidity Provider Incentive Program is to incentivize Users to provide liquidity to the Exchange. In order to achieve that objective, the Exchange believes it is reasonable to amend the tiers and rebates payable under each tier to allow Users of varying levels of participation to qualify for the rebates payable under the incentive program. Volume-based rebates such as those maintained by the Exchange for NYSE Bonds are equitable because they are open to all Users on an equal basis and provide additional benefits that are reasonably related to the value of an exchange's market quality. The proposed modification to the tiers and the proposed addition of a new tier is each intended to incentivize Users to provide liquidity in a greater number of CUSIPs on NYSE Bonds in an effort to qualify for the enhanced rebate made available by the tiers.

The Exchange believes that by providing Users with the ability to earn increased rebates, the Exchange is rewarding aggressive liquidity providers in the market, and by doing so, the Exchange will encourage the additional utilization of, and interaction with, the NYSE Bonds platform and provide customers with the premier venue for price discovery, liquidity, and competitive quotes.

The Exchange further believes that the rebate currently in place is reasonable because it is designed to give Users who meet quoting requirements in a minimum of 400 CUSIPs a benefit by way of a daily rebate. The Exchange also believes that the Liquidity Provider Incentive Program is equitable and not unfairly discriminatory because it would uniformly apply to all Users that trade bonds on NYSE Bonds.

The Exchange believes it is reasonable and equitable to adopt an increased rebate payable to Users under the Agency Order Incentive Program in order to incentivize Users to submit Agency Orders to the Exchange. This in turn would provide NYSE Bonds with potential new order flow and liquidity providers as it continues to grow its marketplace. The Exchange believes it is reasonable and equitable to adopt an increased rebate for a limited period of time as an incentive for Users to submit an increased number of Agency Orders to qualify for the increased rebate, and at the same time to encourage Users that do not participate in the Agency Order Incentive Program to begin to do so during the period of time during which the Exchange would pay the additional $6,000 per month. The Agency Order Incentive Program targets a particular segment in which the Exchange seeks to attract greater order flow and the Exchange believes the proposed increase to the monthly rebate for the remainder of this year should incentivize Users sufficiently to try to qualify for the rebate.

The Exchange believes the proposed rule change would provide an incentive for Users to provide additional liquidity to the market and add competition to the existing group of liquidity providers. The Exchange does not expect the revenues it forgoes as a result of the proposal to negatively affect its ability to conduct its regulatory program.

Finally, the Exchange believes that the proposed rule change is not unfairly discriminatory in that it would apply uniformly to all Users accessing NYSE Bonds. All similarly situated Users would be subject to the increased rebate, and each User would have the ability to determine the extent to which the Exchange's proposed rebate will provide it with an economic incentive to use NYSE Bonds, and model its business accordingly.

[8] *See* Securities Exchange Act Release No. 82343 (December 18, 2017), 82 FR 60782 (December 22, 2017) (SR–NYSE–2017–68).

[9] For purposes of the Agency Order Incentive Program, an Agency Order is any order submitted by a User that it represents as agent on NYSE Bonds. *See* Securities Exchange Act Release No. 82343 (December 18, 2017), 82 FR 60782 (December 22, 2017).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4), (5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Debt securities typically trade in a decentralized OTC dealer market that is less liquid and transparent than the equities markets. The Exchange believes that the proposed change would increase competition with these OTC venues by creating additional incentives to engage in bonds transactions on the Exchange and rewarding market participants for actively quoting and providing liquidity in the only transparent bond market, which the Exchange believes will enhance market quality.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues that are not transparent. In such an environment, the Exchange must continually review, and consider adjusting its fees and rebates to remain competitive with other exchanges as well as with alternative trading systems and other venues that are not required to comply with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [13] of the Act and subparagraph (f)(2) of Rule 19b–4 [14] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2018–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2018–39. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2018–39, and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20195 Filed 9–17–18; 8:45 am]

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[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84099; File No. SR–NYSEARCA–2018–64]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

September 12, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 29, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective September 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule, effective September 1, 2018, to modify the existing Floor Broker rebate for executed Qualified Contingent Cross (''QCC'') orders,[4] and to adjust the Firm and Broker Dealer Monthly Fee Cap.

Currently, the Exchange offers a Floor Brokers Rebate of $0.035 per contract side for QCC trades executed on behalf of non-Customers.[5] The Exchange also offers a Firm and Broker Dealer Monthly Fee Cap (the ''Fee Cap'') which caps fees at $100,000 for Manual (Open Outcry) Executions and, for QCC transactions executed by a Floor Broker from the Floor of the Exchange, for Firm and Broker Dealer transactions cleared in the customer range.[6]

The Exchange proposes to replace the existing Floor Broker Rebate with a two-tiered credit. As proposed, the first tier would provide a $0.07 per contract credit for ''Floor Brokers executing 300,000 or fewer contracts in a month,'' which tier would effectively replace the current $0.035 ''Floor Broker Rebate for Executed Orders—Per Contract Side.'' [7] The Exchange proposes to introduce a second tier that would enable Floor Brokers to earn a higher credit—of $0.10—for executed QCC transactions in excess of 300,000 contracts.[8] The proposed credits would be paid solely on the volume executed to achieve each tier and is not retroactive to the first contract.[9] For example, if a Floor Broker executes 400,000 QCC contracts in a given month, the Floor Broker would receive the $0.07 per contract for the first 300,000 QCC transactions and $0.10 per contract for the remaining 100,000 contracts. As with the existing Floor Broker Rebate, Customer-to-Customer QCC trades would not qualify for any credit as such transactions net the Exchange no revenue.

The Exchange notes that the proposed credit for Floor Brokers is consistent with such credits offered for QCC volumes across the industry. Specifically, the Nasdaq OMX PHLX (''PHLX'') and Nasdaq ISE (''ISE'') pay volume-based rebates for QCC volume that range from $0.00 to $0.11 per contract.[10]

The Exchange also proposes to adopt an incremental service fee of $0.01 per contract for Firm or Broker Dealer Manual transactions once an OTP Holder or OTP Firm has reached the applicable Fee Cap. The incremental service fee would not apply to the execution of a QCC order. The Exchange notes that this proposed fee is competitive as it is consistent with the incremental service fee that NYSE American imposes once firms have reached a similar monthly fee cap on that exchange.[11]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed tiered Floor Broker credits for QCC volume rebates are reasonable, equitable and not unfairly discriminatory because the credits are designed to attract more QCC volume to the Exchange. To the extent that the credits attract additional order flow to the Exchange, all market participants should benefit. Market participants may engage Floor Brokers to entrust them with their QCC orders and, given the credit that a Floor Broker may receive, such market participants may negotiate the appropriate fee for such order flow.

The Exchange also believes that the proposed credits are equitable and not unfairly discriminatory because they would apply to all Floor Brokers that execute QCC orders on the Exchange on an equal and non-discriminatory basis. Moreover, the Exchange notes that the proposed credits are consistent with credits offered by other options exchanges. Specifically, PHLX and ISE pay volume-based rebates for QCC volume that range from $0.00 to $0.11 per contract.[12]

The Exchange believes that the proposed textual changes to the Floor Broker credit (*see supra* n. 7) would add clarity, transparency and internal consistency to the Fee Schedule.

The Exchange believes that adopting the proposed incremental service fee once a firm reaches the Fee Cap is

[4] The QCC permits an OTP Holder or OTP Firm to effect a qualified contingent trade (''QCT'') in a Regulation NMS stock and cross the options leg of the trade on the Exchange immediately upon entry and without order exposure if the order is for at least 1,000 contracts, is part of a QCT, is executed at a price at least equal to the national best bid or offer, as long as there are no Customer orders in the Exchange's Consolidated Book at the same price.

[5] *See* Fee Schedule, QUALIFIED CONTINGENT CROSS TRANSACTION FEES, *available here,https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[6] The Fee Cap excludes fees for Strategy Executions, Royalty Fees and firm trades executed via a Joint Back Office agreement. *See id.* FIRM AND BROKER DEALER MONTHLY FEE CAP. The Exchange also offers a lesser cap on fees for those OTP Holders and OTP Firms that achieve certain Tiers of the Customer Penny Pilot Posting Credit Tiers. *See id.,* FIRM AND BROKER DEALER MONTHLY FIRM CAP TIERS.

[7] The Exchange also proposes to make a number of textual changes to the table regarding QCC transactions. Specifically, the Exchange proposes to revise the title of the table to reflect the shorthand ''QCC'' and that the table includes fees ''and credits''; to revise the column headings to ''Participant'' and ''Per Contract Fee or Credit''; to remove reference to ''per side'' with respect to QCC fees as fees/credits are based on participant type executing such contracts; and to remove the term ''Rebate'' as the Floor Brokers are actually given a credit against fees incurred. *See* proposed Fee Schedule, QUALIFIED CONTINGENT CROSS (''QCC'') TRANSACTION FEES AND CREDITS and Endnote 13. The Exchange believes these technical changes would add clarity and transparency to the Fee Schedule.

[8] *See id.* (including reference to Endnote 13 in proposed tier, consistent with the current schedule for QCCs). *See* Fee Schedule, Endnote 13 *supra* n. 5 (providing that the Floor Broker credit does not apply to QCC executions in which a Customer is on both sides of the QCC and capping the potential monthly credit at $375,000 per Floor Broker firm).

[9] *See id.,* Endnote 13 (providing, in relevant part, ''[t]he Floor Broker credit is paid only on volume within the applicable tier and is not retroactive to the first contract traded'').

[10] *See* PHLX Pricing Schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing;* and ISE Schedule of Fees, *available here, http://ise.cchwallstreet.com/tools/PlatformViewer.asp?selectednode=chp_1_1_5&manual=%2Fcontents%2Fise%2Fise-fee%2F.*

[11] *See* NYSE American Options Fee Schedule, *Section I.I., Firm Monthly Fee Cap, available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf* (providing that ''[o]nce a Firm has reached the Firm Monthly Fee Cap, an incremental service fee of $0.01 per contract for Firm Manual transactions will apply, except for the execution of a QCC order, in which case there is no incremental service fee''). The Exchange notes that the fee cap on NYSE American applies only to ''Firms,'' whereas the NYSE Arca Fee Cap applies to both Firms and Broker Dealers.

[12] *See supra* n. 10.

reasonable because it would allow the Exchange to recoup the costs incurred in providing certain services, including but not limited to trade matching and processing, post trade allocation, submission for clearing and customer service activities related to trading activity on the Exchange. In this regard, the Exchanges notes that the proposed fee is consistent with similarly such incremental fees charged on other options exchanges in connection with similar fee caps and is therefore competitive.[13] Finally, the Exchange believes the proposal to adopt the service fee is equitable and not unfairly discriminatory because it would uniformly apply to all member firms engaged in manual proprietary trading that have reached the Fee Cap.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed change would allow Floor Brokers to better compete for QCC volumes as the credits are consistent with those paid to participants on other exchanges.[14] The Exchange also believes that the proposed service fee is likewise competitive as it would allow the Exchange to recoup certain costs incurred in providing services to member firms and is consistent with similar such fees charged by other exchanges that offer a similar monthly fee cap.[15]

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[16] of the Act and subparagraph (f)(2) of Rule 19b–4[17] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2018–64 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2018–64. 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–NYSEARCA–2018–64 and should be submitted on or before October 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–20194 Filed 9–17–18; 8:45 am]

BILLING CODE 8011–01–P

[13] *See supra* n. 11.

[14] *See supra* n. 10.

[15] *See supra* n. 11.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(2).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Delegation of Authority No. 460]

Delegation of Authority Payment of Rewards

By virtue of the authority vested in the Secretary of State by the laws of the United States, including 22 U.S.C. 265l(a) and 22 U.S.C. 2708(e), I hereby delegate to the Assistant Secretary for Diplomatic Security, to the extent authorized by law, authority to approve the payment of rewards of $100,000 or less as recommended by the relevant Interagency Rewards Committee.

Approval of such rewards will be in accordance with 22 U.S.C. 2708 and Volume 12 of the Foreign Affairs Manual Subchapter 228.

Any authorities covered by this delegation may also be exercised by the Secretary, the Deputy Secretary, and the Under Secretary for Management. Nothing in this delegation of authority shall be deemed to supersede any existing delegation of authority, which shall remain in full force and effect during and after this delegation.

This memorandum shall be published in the **Federal Register**.

Dated: June 4, 2018.

Michael R. Pompeo,

Secretary of State.

Note: The Office of the **Federal Register** received this document on September 13, 2018.

[FR Doc. 2018–20284 Filed 9–17–18; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice 10548]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Victorian Radicals: From the Pre-Raphaelites to the Arts & Crafts Movement'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Victorian Radicals: From the Pre-Raphaelites to the Arts & Crafts Movement,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Oklahoma City Museum of Art, Oklahoma City, Oklahoma, from on or about October 11, 2018, until on or about January 6, 2019; at the Vero Beach Museum of Art, Vero Beach, Florida, from on or about February 9, 2019, until on or about May 5, 2019; at the Seattle Art Museum, Seattle, Washington, from on or about June 13, 2019, until on or about September 8, 2019; at the San Antonio Museum of Art, San Antonio, Texas, from on or about October 10, 2019, until on or about January 5, 2020; at the Yale Center for British Art, New Haven, Connecticut, from on or about February 13, 2020, until on or about May 10, 2020; at the Nevada Museum of Art, Reno, Nevada, from on or about June 20, 2020, until on or about September 13, 2020; at The Frick Pittsburgh, in Pittsburgh, Pennsylvania, from on or about October 29, 2020, until on or about January 24, 2021; and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–14 of September 10, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–20210 Filed 9–17–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10543]

60-Day Notice of Proposed Information Collection: Request To Change End User, End Use and/or Destination of Hardware

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. 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 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to November 19, 2018.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2018–0041'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: DDTCPublicComments@state.gov*.
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Andrea Battista, 2401 E St. NW, Suite H–1205, Washington, DC 20522–0112.

You must include the subject (PRA 60 Day Comment), information collection title (Request to Change End User, End Use, and/or Destination Hardware), and OMB control number (1405–0173 in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding this collection to Andrea Battista, who may be reached at *BattistaAL@state.gov* or 202–663–3136.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request to Change End User, End Use and/or Destination of Hardware.
- *OMB Control Number:* 1405–0173.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* DS–6004.
- *Respondents:* Business or Nonprofit Organizations.
- *Estimated Number of Respondents:* 500.
- *Estimated Number of Responses:* 500.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

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 Request to Change End-User, End-Use and/or Destination of Hardware information collection is used to request DDTC approval prior to any sale, transfer, transshipment, or disposal, whether permanent or temporary, of classified or unclassified defense articles to any end-user, end-use or destination other than as stated on a license or other approval.

Methodology

Currently, there is no option of electronic submission of this information. Submissions are made via hardcopy documentation. Applicants are referred to ITAR § 123.9 for guidance on information to submit regarding the request to change end-user, end-use and/or destination of hardware. Upon implementation of DDTC's new case management system, The Defense Export Control and Compliance System (DECCS), a DS–6004 may be submitted electronically.

Anthony M. Dearth,

Chief of Staff, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2018–20209 Filed 9–17–18; 8:45 am]

BILLING CODE 4710–25–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2018–0032]

Procedures To Consider Requests for Exclusion of Particular Products From the Additional Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: In a notice published on August 16, 2018 (83 FR 40823), the U.S. Trade Representative (Trade Representative) determined to take an additional action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The August 16 notice also announced that the Trade Representative would establish a process by which U.S. stakeholders may request that particular products classified within a tariff subheading covered by the additional action be excluded from the additional duties. This notice sets out the specific procedures and criteria related to requests for product exclusions, and opens up a docket for the receipt of exclusion requests.

DATES: USTR must receive all requests to exclude a particular product by December 18, 2018. Responses to a request for exclusion of a particular product are due 14 days after the request is posted in docket number USTR–2018–0032 on *www.regulations.gov.* Any replies to responses to an exclusion request are due the later of 7 days after the close of the 14 day response period, or 7 days after the posting of a response.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting requests for exclusion, responses to requests, and replies to responses in section B below. The docket number is USTR–2018–0032.

FOR FURTHER INFORMATION CONTACT: For questions about the product exclusion process, contact Assistant General Counsels Megan Grimball or Philip Butler, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For questions on customs classification or implementation of additional duties, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On August 18, 2017, the Office of the U.S. Trade Representative (USTR) initiated an investigation into certain acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation (82 FR 40213).

In a notice published on April 6, 2018 (83 FR 14906), the Trade Representative announced a determination that the acts, policies, and practices of the Government of China covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce. The April 6 notice also invited public comment on a proposed action in the investigation, in the form of an additional 25 percent *ad valorem* duty on products from China classified in a list of 1,333 tariff subheadings, with an annual trade value of approximately $50 billion.

After review, the Trade Representative determined to take an initial action in the investigation, and to consider an additional proposed action. *See* 83 FR 28710 (June 20, 2018). The Trade Representative narrowed the proposed list in the April 6 notice to 818 tariff subheadings, with an approximate annual trade value of $34 billion. This initial action became effective on July 6, 2018. The additional proposed action was an additional *ad valorem* duty of 25 percent on products of China classified in 284 tariff subheadings, with an annual trade value of approximately $16 billion, as set forth in Annex C to the June 20 notice.

After review, the Trade Representative determined to impose additional duties on 279 tariff subheadings, with an annual trade value of approximately $16 billion. *See* 83 FR 40823 (August 16, 2018). The additional duties on these products took effect on August 23, 2018.

During the notice and comment process, a number of interested persons asserted that specific products within a particular tariff subheading only were available from China, that the imposition of additional duties on the specific products would cause severe economic harm to a U.S. interest, and that the specific products were not strategically important or related to the ''Made in China 2025'' program. In light of such concerns, the Trade Representative determined to establish a process by which U.S. stakeholders may request that particular products classified within a covered HTSUS subheading be excluded from the additional action. That process is set out in the remainder of this notice.

B. Procedures To Request the Exclusion of Particular Products

USTR invites interested persons, including trade associations, to submit requests for exclusion from the additional duties of a particular product classified within an HTSUS subheading set out in Annex A of the notice published at 83 FR 40823 (August 16, 2018). As explained in more detail below, each request specifically must identify a particular product, and provide supporting data and the rationale for the requested exclusion. USTR will evaluate each request on a case-by-case basis, taking into account whether the exclusion would undermine the objective of the Section 301 investigation. Any exclusion will be effective starting from the August 23, 2018 effective date of the additional duties, and extending for one year after the publication of the exclusion determination in the **Federal Register**. In other words, an exclusion, if granted, will apply retroactively to the August 23 date of the imposition of the additional duties. USTR will periodically announce decisions on pending requests.

1. Requests for Exclusion of Particular Products

With regard to product identification, any request for exclusion must include the following information:

- Identification of the particular product in terms of the physical characteristics (*e.g.,* dimensions, material composition, or other characteristics) that distinguish it from other products within the covered 8-digit subheading. USTR will not consider requests that identify the product at issue in terms of the identity

of the producer, importer, ultimate consumer, actual use or chief use, or trademarks or tradenames. USTR will not consider requests that identify the product using criteria that cannot be made available to the public.

- The 10-digit subheading of the HTSUS applicable to the particular product requested for exclusion.
- Requesters also may submit information on the ability of U.S. Customs and Border Protection to administer the exclusion.

Requesters must provide the annual quantity and value of the Chinese-origin product that the requester purchased in each of the last three years. For trade association requesters, please provide such information based on your members' data. If precise annual quantity and value information are not available, please provide an estimate and explain the basis for the estimation.

For imports sold as final products, requesters must provide the percentage of their total gross sales in 2017 that sales of the Chinese-origin product accounted for.

For imports used in the production of final products, requesters must provide the percentage of the total cost of producing the final product(s) the Chinese-origin input accounts for and the percentage of their total gross sales in 2017 that sales of the final product(s) accounted for.

With regard to the rationale for the requested exclusion, each request for exclusion should address the following factors:

- Whether the particular product is available only from China. In addressing this factor, requesters should address specifically whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requester or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

In addressing each factor, the requester should provide support for their assertions. Requesters also may provide any other information or data that they consider relevant to an evaluation of the request.

Any request that contains business confidential information must be accompanied by a public version. The public version will be posted on *regulations.gov*.

2. Responses to Requests for Exclusions

After a request for exclusion of a particular product is posted on docket number USTR 2018–0032, interested persons will have *14 days* to respond to the request, indicating support or opposition and providing reasons for their view. All responses must clearly identify the specific request for exclusion being addressed. You can view requests for exclusions on *www.regulations.gov* by entering docket number USTR–2018–0032 in the search field on the home page.

3. Replies to Responses to Requests for Exclusions

After a response is posted on docket number USTR 2018–0032, interested persons will have the opportunity to reply to the response. Any reply must be posted within the later of *7 days* after the close of the 14 day response period, or 7 days after the posting of a response. All replies must clearly identify the specific responses being addressed.

4. Submission Instructions

As noted above, interested persons must submit requests for exclusions by December 18, 2018. Any responses to those requests must be submitted within 14 days after the requests are posted. Any reply to a response must be submitted within the later of 7 days after the close of the 14 day response period, or 7 days after the posting of a response. Interested persons seeking to exclude two or more products must submit a separate request for each product, *i.e.,* one product per request.

All submissions must include a statement that the submitter certifies that the information provided is complete and correct to the best of his or her knowledge.

To assist in review of requests for exclusion, USTR has prepared a request form that will be posted on the USTR website under 'Enforcement/Section 301 investigations' and on the *www.regulations.gov* docket in the 'supporting documents' section. USTR strongly encourages interested persons to use the form to submit requests, though use of the form is not required. All submissions must be in English and sent electronically via *www.regulations.gov.*

5. To Submit a Product Exclusion Request

To submit requests via *www.regulations.gov,* enter document ID number USTR–2018–0032 on the home page and click 'search.' The site will provide a search-results page listing the **Federal Register** notice associated with this docket. Find a reference to this notice and click on the link titled 'comment now!'. Once posted on the electronic docket, the exclusion request will be viewable in the 'primary documents' section.

File names for requests for exclusions must include the 10-digit subheading of the HTSUS applicable to the particular product and the name of the person or entity submitting the request (*e.g.,* 1234567890 Initech). If the request includes business confidential information, then two files must be submitted—the business confidential version and a public version. The file names must indicate the version, *e.g.,* 1234567890 Initech BC and 1234567890 Initech P. Additional instructions on business confidential submissions can be found below in Section B.8 of this notice.

6. To Submit a Response to a Product Exclusion Request

To respond to a request for exclusion, please find the request in the 'primary documents' section of the docket and click on the link titled 'comment now!' associated with that specific request. Responses made on requests for exclusion will appear in the 'comments' section of the docket.

File names for responses to requests should include the document ID of the request and the name of the person or entity submitting the response (*e.g.,* USTR–2018–0032–0005 Initrode). If the response includes business confidential information, then two files must be submitted—the business confidential information version and a public version. The file names should indicate the version, *e.g.,* USTR–2018–0032–0005 Initrode BC and USTR–2018–0032–0005 Initrode P.

7. To Submit a Reply to a Response on a Product Exclusion Request

To reply to a response made to an exclusion request, please find the exclusion request that is the subject of the response in the 'primary documents' section of the docket and click on the link titled 'comment now!'. Replies will appear in the 'comments' section of the docket.

File names for replies should include the document ID of the response and the name of the person or entity submitting the reply (*e.g.,* USTR–2018–0032–0020 Initech). If the reply includes business confidential information, then two files must be submitted—the business confidential information version and a public version. The file names must indicate the version, *e.g.,* USTR–2018–0032–0020 Initech BC and USTR–2018–0032–0020 Initech P.

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.

8. Document Format Instructions

Submit requests for product exclusions in an attached document. Type 'see attached' in the 'comment' field. USTR prefers submissions made using the request form that will be posted on the USTR website under 'Enforcement/Section 301 investigations' and on the *www.regulations.gov* docket in the 'supporting documents' section and saved as a searchable Adobe Acrobat (.pdf) document. If you do not use the USTR form, USTR prefers submissions made in Microsoft Word (.doc) or searchable Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'comment' field.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any documents submitted electronically containing business confidential information, the file name of the business confidential version must end with the characters 'BC'. Any page containing business confidential information must be clearly marked 'BUSINESS CONFIDENTIAL' on the top 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 submissions. The file name of the public version must end with the character 'P'. The 'BC' and 'P' should follow the rest of the file name. If these procedures are not sufficient to protect business confidential information or otherwise protect business interests, please contact the USTR Section 301 line at (202) 395–5725 to discuss whether alternative arrangements are possible.

USTR will post submissions in the docket for public inspection, except business confidential information. You can view submissions on the *https://www.regulations.gov* website by entering docket number USTR–2018–0032 in the search field on the home page.

Robert E. Lighthizer,

United States Trade Representative.

[FR Doc. 2018–20246 Filed 9–17–18; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0026]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on June 7, 2018, the Western Maryland Scenic Railroad (WMSR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215 and 224. FRA assigned the petition Docket Number FRA–2018–0026.

Specifically, WMSR requests relief from 49 CFR 215.303, *Stenciling of restricted cars,* and 49 CFR part 224, *Reflectorization of Rail Freight Rolling Stock,* for 16 freight cars. WMSR explains it is a non-profit entity, operating on 17 miles of track from Ridgeley, WV, through Cumberland, MD, and west to Frostburg, MD. WMSR owns several freight cars of various built and rebuilt dates, and primarily uses this equipment as operating historic artifacts. WMSR receives inquiries for the making up and operation of historic demonstration trains using the freight cars for photography, historic documentation, and film production, along with its diesel and steam engines. Because the chartering of such demonstration trains is potentially profitable, WMSR would like the flexibility to make and operate the historic freight trains at any time. WMSR states these ''dedicated service'' cars have been certified as safe to operate. The cars will only be operated occasionally, on WMSR track, empty, and at or below 10 miles per hour.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–20204 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Notice No. 2018–15]

Hazardous Materials: Emergency Waiver No. 6

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of emergency waiver order.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration is issuing an emergency waiver order to persons conducting operations under the direction of Environmental Protection Agency (EPA) Regions 3 or 4 or United States Coast Guard (USCG) Fifth or Seventh Districts within the Hurricane Florence emergency areas of South Carolina, North Carolina, and Virginia. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from Hurricane Florence. This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

FOR FURTHER INFORMATION CONTACT: Adam Horsley, Deputy Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366–4400.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 49 U.S.C. 5103(c), the Administrator for the Pipeline and Hazardous Materials Safety Administration (PHMSA), hereby declares that an emergency exists that warrants issuance of a Waiver of the Hazardous Materials Regulations (HMR, 49 CFR parts 171–180) to persons conducting operations under the direction of Environmental Protection Agency (EPA) Regions 3 or 4 or United States Coast Guard (USCG) Fifth or Seventh Districts within the Hurricane Florence emergency areas of South Carolina, North Carolina, and Virginia. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from Hurricane Florence.

On September 10, 2018, the President issued an Emergency Declaration for Hurricane Florence for all 46 South Carolina counties and the Catawba Indian Nation (EM 3400). On September 10, 2018, the President also issued an Emergency Declaration for Hurricane Florence for all 100 North Carolina counties and the Eastern Band of Cherokee Indians (EM 3401). On September 11, 2018, the President issued an Emergency Declaration for Hurricane Florence for the entire Commonwealth of Virginia (EM 3403).

This Waiver Order covers all areas identified in the three declarations, as amended. Pursuant to 49 U.S.C. 5103(c), PHMSA has authority delegated by the Secretary (49 CFR 1.97(b)(3)) to waive compliance with any part of the HMR provided that the grant of the waiver is: (1) In the public interest; (2) not inconsistent with the safety of transporting hazardous materials; and (3) necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Given the continuing impacts caused by Hurricane Florence, PHMSA's Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while the EPA and USCG execute their recovery and cleanup efforts in South Carolina, North Carolina, and Virginia. Specifically, PHMSA's Administrator finds that issuing this Waiver Order will allow the EPA and USCG to conduct their Emergency Support Function #10 response activities under the National Response Framework to safely remove, transport, and dispose of hazardous materials. By execution of this Waiver Order, persons conducting operations under the direction of EPA Regions 3 or 4 or USCG Fifth or Seventh Districts within the Hurricane Florence emergency areas of South Carolina, North Carolina, and Virginia are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Regions 3 or 4 or USCG Fifth or Seventh Districts when compliance with the HMR is not practicable. Under this Waiver Order, non-radioactive hazardous materials may be transported to staging areas within 50 miles of the point of origin. Further transportation of the hazardous materials from staging areas must be in full compliance with the HMR.

This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

Issued in Washington, DC, on September 12, 2018.

Howard R. Elliott,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2018–20188 Filed 9–17–18; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Guidance on Stress Testing for Banking Organizations With More than $10 Billion in Total Consolidated Assets

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Guidance on Stress Testing for Banking Organizations with more than $10 Billion in Total Consolidated Assets.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before October 18, 2018.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0312, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0312'' in your comment. In general, the OCC will publish your comment on

www.reginfo.gov without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0312, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov*.

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-Day comment period for this notice by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov*. Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0312'' or ''Guidance on Stress Testing for Banking Organizations with More than $10 Billion in Total Consolidated Assets.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB extend its approval of the following information collection.

Title: Guidance on Stress Testing for Banking Organization with More than $10 Billion in Total Consolidated Assets.

OMB Control No.: 1557–0312.

Description: Each banking organization should have the capacity to understand its risks and the potential impact of stressful events and circumstances on its financial condition.[2] On May 17, 2012, the OCC, along with the Federal Deposit Insurance Corporation (FDIC) and the Board of Governors of the Federal Reserve (FRB), published guidance on the use of stress testing as a means to better understand the range of a banking organization's potential risk exposures.[3] The OCC is now seeking to renew the information collection associated with that guidance.

The guidance provides an overview of how a banking organization should structure its stress testing activities to ensure those activities fit into the banking organization's overall risk management. The purpose of the guidance is to outline broad principles for a satisfactory stress testing framework and describe the manner in which stress testing should be used. While the guidance is not intended to provide detailed instructions for conducting stress testing for any particular risk or business area, it does describe several types of stress testing activities and how they may be most appropriately used by banking organizations. In addition, although the guidance does not at present explicitly address the stress testing requirements imposed upon certain companies by section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[4] the guidance will be revisited as part of the OCC's implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Pub. L. 115–174, May 24, 2018) (Economic Growth Act), which amended the Dodd-Frank Act to raise the threshold for national banks and FSAs subject to stress testing from $10 billion to $250 billion in total consolidated assets, reduce the number of stress test scenarios, and revise the annual stress test requirement to a periodic requirement. There was insufficient time to address changes needed to the guidance prior to completing this renewal.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 62.

Estimated annual burden: 16,120 hours.

The OCC issued a notice for 60 days of comment regarding this collection, April 2, 2018, 83 FR 14103. No comments were received. Comments continue to be invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Dated: September 12, 2018.

Theodore J. Dowd,

Deputy Chief Counsel.

[FR Doc. 2018–20231 Filed 9–17–18; 8:45 am]

BILLING CODE 4810–33–P

[1] On April 2, 2018, the OCC published a 60-Day notice for this information collection.

[2] For purposes of this guidance, the term ''banking organization'' means national banks and federal branches and agencies supervised by the OCC; state member banks, bank holding companies, and all other institutions for which the FRB is the primary federal supervisor; and state nonmember insured banks and other institutions supervised by the FDIC.

[3] 77 FR 29458 (May 17, 2012).

[4] Public Law 111–203, 124 Stat. 1376. Section 165(i) of the Dodd-Frank Act is codified at 12 U.S.C. 5365(i)(2).

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 Foreign Account Tax Compliance Act (FATCA) registration.

DATES: Written comments should be received on or before November 19, 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: Application for Foreign Account Tax Compliance Act (FATCA) Registration, FATCA Report, Cover Sheet for Paper Submissions, Request for Waiver From filing Information Returns Electronically, and Application for Extension of Time To File Information Returns.

OMB Number: 1545–2246.

Form Numbers: 8966, 8957, 8966–C, 8809–I, and 8508–I.

Abstract: The IRS developed these forms under the authority of IRC section 1471(b), which was added by Public Law 111–47, section 501(a). Section 1471 is part of the Foreign Account Tax Compliance Act (FATCA) legislative framework to obtain reporting from foreign financial institutions on the accounts held in their institutions by US persons. Form 8957, Foreign Account Tax Compliance Act (FATCA) Registration information is to be used by a foreign financial institution to apply for status as a foreign financial institution as defined in IRC 1471(b)(2).

The information from Form 8966, FATCA Report, is to be used by a responsible officer of a foreign institution to apply for a foreign account tax compliance Act individual identification number as defined in IRC 1471(b)(2). Form 8966–C is used to authenticate the Form 8966, U.S. Income Tax Return for Estates and Trusts, and to ensure the ability to identify discrepancies between the number of forms received versus those claimed to have been sent by the filer. Taxpayers use Form 8508–I to request a waiver from filing Form 8966 electronically. Form 8809–I is used to request an initial or additional extension of time for file 8966 for the current year.

Current Actions: There are changes to the previously approved burden of this existing collection. The agency has updated the number of respondents based on the most recent filing data.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form 8957

Estimated Number of Respondents: 30,620.

Estimated Time per Response: 8 hours, 7 minutes.

Estimated Total Annual Burden Hours: 249,247.

Form 8966

Estimated Number of Respondents: 5,429,560.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 2,280,415.

Form 8966–C

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 120.

Form 8508–I

Estimated Number of Respondents: 100.

Estimated Time per Response: 4 hrs., 17 minutes.

Estimated Total Annual Burden Hours: 429.

Form 8809–I

Estimated Number of Respondents: 5,000.

Estimated Time per Response: 3 hrs., 22 minutes.

Estimated Total Annual Burden Hours: 16,800.

Totals for This Collection (All Five Forms)

Estimated Number of Respondents: 5,466,280.

Estimated Total Annual Burden Hours: 2,547,011.

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: September 10, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–20220 Filed 9–17–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Information Collection for Form 8569

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8569, Geographic Availability Statement.

DATES: Written comments should be received on or before November 19, 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. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to Alissa Berry, at (901) 707–4988, at Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Alissa.A.Berry@irs.gov*.

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Geographic Availability Statement.

OMB Number: 1545–0973.

Form Number: 8569.

Abstract: This form is used to collect information from applicants for the Senior Executive Service Candidate Development Program and other executive positions. The form states an applicant's minimum area of availability and is used for future job placement.

Current Actions: There are no changes being made to the Form 8569 at this time.

Type of Review: Extension without change of currently approved collection.

Affected Public: Individuals and the Federal Government.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 84.

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: September 10, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–20222 Filed 9–17–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Family, Caregiver, and Survivor Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Veterans' Family, Caregiver, and Survivor Advisory Committee will meet on October 3–4, 2018. The meeting will be held at the American Red Cross, 430 17th Street NW, Washington, DC 20006. Both sessions will begin at 9:00 a.m. (EST) each day. The session on October 3 will adjourn at approximately 5:00 p.m. The session on the October 4 will adjourn at approximately 4:30 p.m. The meetings are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters related to: Veterans' families, caregivers, and survivors across all generations, relationships, and Veterans status; the use of VA care and benefits services by Veterans' families, caregivers, and survivors, and possible expansion of such care and benefits services; Veterans' family, caregiver, and survivor experiences; VA policies, regulations, and administrative requirements related to the transition of Servicemembers from the Department of Defense (DoD) to enrollment in VA that impact Veterans' families, caregivers, and survivors; and factors that influence access to, quality of, and accountability for services and benefits for Veterans' families, caregivers, and survivors.

On October 3 and October 4, the agenda will include information briefings from the subcommittee and offices within Veterans Health Administration (that include Caregiver Support Program, Center of Excellence, Choose Home, Suicide Prevention-Impact on Veterans' Family, Caregivers, and Survivors, and Opioid Crisis—Impact on Veterans' Family, Caregivers, and Survivors, and the Office of Survivors Assistance), as well as opening remarks from VA senior leaders including the Chief Veterans Experience Officer and the Committee Chair. Committee members will also discuss the committee work plan and future activities. Public comments will be received at 4:45–5:30 p.m. on October 3, 2018.

Individuals wishing to speak should contact Dr. Betty Moseley Brown at *Betty.MoseleyBrown@va.gov* or (202) 465–6199 and are requested to submit a 1–2 page summary of their comments for inclusion in the official meeting record. In the interest of time, each speaker will be held to a 5 minute time limit.

If you are interested in attending, please submit your name to Betty Moseley Brown by September 28, 2018 to help expedite arrival process. Any member of the public seeking additional information should contact Dr. Betty Moseley Brown at *Betty.MoseleyBrown@va.gov* or (202) 465–6199.

Dated: September 13, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–20282 Filed 9–17–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0679]

Agency Information Collection Activity Under OMB Review: Certification of Change or Correction of Name Government Life Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the

Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 18, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0679'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0679'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Certification of Change or Correction of Name Government Life Insurance (VA Form 29–586).

OMB Control Number: 2900–0679.

Type of Review: Extension of a previously approved collection.

Abstract: The form is used by the insured as a certification of change or correction of name. The information on the form is required by law, U.S.C. 1904 and 1942.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 31839 on July 9, 2018, pages 31839 and 31840.

Affected Public: Individuals and Households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 120.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–20199 Filed 9–17–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Agency Information Collection Activity Under OMB Review: Accelerated Aging Among Vietnam-Era Veterans Survey

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 18, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900—NEW'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov*. Please refer to ''OMB Control No. 2900—NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 527.

Title: Accelerated Aging among Vietnam-Era Veterans Survey.

OMB Control Number: 2900—NEW.

Type of Review: New collection.

Abstract: The National Center for PTSD (NCPTSD) was recently allocated funds by Congress to be used for research to advance the prevention and treatment of PTSD. The original language of the legislation states the following: ''The committee recognizes the importance of the VA National Center for PTSD in promoting better prevention, diagnoses, and treatment of PTSD.'' In response to this, we have developed a study that aims to understand how and the degree to which warzone deployment is associated with increased morbidity and mortality, with particular attention to potential differences among white, black, and Hispanic Veterans, as well as male and female Veterans. To this end, we will consider multiple aspects of military service, deployment experiences, and current stressors of Vietnam-era Veterans in relation to current physical and mental health outcomes. This information will directly inform intervention efforts aimed at prevention or treatment of chronic disorders such as PTSD, depression, and substance/alcohol use disorders, as well as comorbid physical health conditions, particularly in underserved portions of our Veteran population. This type of information can inform system-wide interventions that can maximize Veterans' likelihood of receiving timely and evidence-based healthcare, thereby preventing long-term health problems.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 31255 on July 3, 2018, pages 31255 and 31256.

Affected Public: Individuals and households.

Estimated Annual Burden:

Mail Survey: 3,420 hours.

Telephone Survey: 2,738 hours.

Estimated Average Burden per Respondent:

Mail Survey: 45 minutes.

Telephone Survey: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

Mail Survey: 4,560.

Telephone Survey: 3,650.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–20200 Filed 9–17–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Tuesday,
No. 181 September 18, 2018

Part II

Department of Veterans Affairs

38 CFR Part 3
Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits; Final Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AO73

Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations governing veterans' eligibility for VA pensions and other needs-based benefit programs. The amended regulations establish new requirements for evaluating net worth and asset transfers for pensions and identify which medical expenses may be deducted from countable income for VA's needs-based benefit programs. The amendments help to ensure the integrity of VA's needs-based benefit programs and the consistent adjudication of pension and parents' dependency and indemnity compensation claims. Lastly, the amendments effectuate: Statutory changes for pension beneficiaries who receive Medicaid-covered nursing home care; a statutory income exclusion for disabled veterans; and longstanding statutory income exclusions for all VA needs-based benefits.

DATES: *Effective Date:* This rule is effective October 18, 2018.

FOR FURTHER INFORMATION CONTACT: Timothy Bailey, Acting Assistant Director, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 21P1, 810 Vermont Ave. NW, Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

A. Overview of Proposed Provisions Producing the Majority of Public Comments

In a notice of proposed rulemaking published in the **Federal Register** on January 23, 2015 (80 FR 3840), VA proposed to amend its adjudication regulations governing its needs-based pension benefit for wartime veterans and for surviving spouses and children of wartime veterans, as well as its adjudication regulations governing its older pension programs and parents' dependency and indemnity compensation (DIC).

The 60-day public comment period ended on March 24, 2015. VA received over 850 comments from an array of constituencies, including advocates, advisors, law firms, members of Congress, State government agencies, professional associations, veterans service organizations, and other interested members of the public. We read, analyzed, and considered each comment and are grateful to all who invested their time to comment. Some commenters stated that our explanation for certain provisions is unclear. We believe that we provided adequate justification in the proposed rule for this rulemaking but nonetheless provide further justification for this rulemaking in this final rule document. Many made valuable contributions, and we made changes in the final rule as a result. We grouped the comments by topic and discuss them by topic group later in this document.

The majority of the comments focused on several specific provisions, and we summarize those here. First, we proposed changes to the pension benefit program with respect to the amount of net worth a claimant could have to qualify for pension (for purposes of this supplementary information, references to a claimant include a beneficiary). We proposed a bright-line net worth limit and proposed as the limit the dollar amount of the maximum community spouse resource allowance (CSRA) for Medicaid purposes, at the time of publication of the final rule. We proposed to define net worth for VA purposes as the sum of a claimant's assets and annual income.

Second, we proposed to set forth the manner in which VA calculates a claimant's assets. We proposed to clarify VA's treatment of a claimant's residence for asset calculation purposes. We proposed a definition of ''residential lot area'' to mean the lot on which a residence sits that is similar in size to other residential lots in the vicinity, but not to exceed 2 acres (87,120 square feet), unless the additional acreage is not marketable.

Third, we proposed to establish a 36-month ''look-back'' period and a penalty period not to exceed 10 years for those who transfer assets during this look-back period to qualify for pension. We proposed that a transfer for less than fair market value would include an asset transfer to, or purchase of, any financial instrument or investment that reduces net worth and would not be in the claimant's financial interest were it not for the claimant's attempt to qualify for pension. We proposed that examples of such instruments or investments would include trusts and annuities. We further proposed to create a presumption that, in the absence of clear and convincing evidence showing otherwise, an asset transfer made during the look-back period was for the purpose of decreasing net worth to establish pension entitlement. We proposed that the presumption could be rebutted by clear and convincing evidence that the claimant transferred the asset as the result of fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to pension. The proposed rule provided that VA would not consider as a transfer for less than fair market value a trust established on behalf of a child whom VA has rated incapable of self-support. The proposed rule provided that VA would not recalculate a penalty period unless the original calculation was shown to be erroneous or VA received evidence, within 60 days after VA notified the claimant of the decision, that all covered assets were returned to the claimant before the date of claim or within 30 days after the date of claim.

Finally, we proposed to define and identify medical expenses that VA may deduct from countable income for its needs-based benefits that utilize such deductions. We proposed definitions of ''activities of daily living'' (ADLs); ''instrumental activities of daily living'' (IADLs); ''custodial care''; and ''assisted living, adult day care, or similar facility.'' We proposed to define ''custodial care'' as regular assistance with two or more ADLs or supervision because an individual with a mental disorder is unsafe if left alone due to the mental disorder. The proposed rule provided that, generally, medical expenses do not include either assistance with IADLs or meals and lodging in an independent living facility. The proposed rule provided that an in-home care attendant's ''hourly rate may not exceed the average hourly rate for home health aides published annually'' in the Market Survey of Long-Term Care Costs published by the MetLife Mature Market Institute.

For the reasons set forth in the proposed rule and in the discussion below, we are adopting the proposed rule as final, with changes as explained below to proposed 38 CFR 3.261, 3.262, 3.263, 3.270, 3.272, 3.274, 3.275, 3.276, 3.278, and 3.279.

B. Terminology Clarifications Regarding VA Pension and Other VA Needs-Based Benefits

Multiple commenters did not understand various VA benefits and one commenter expressed confusion by our use of the term ''needs-based.'' As used in this supplementary information, ''needs-based'' refers to a VA benefit in which the claimant's income is an entitlement factor or both a claimant's

income and assets are entitlement factors. ''Need'' as used here refers to financial need and does not refer to a claimant's level of disability. Another term for ''needs-based'' is ''means-tested.'' The following VA benefits are needs-based: Pension for veterans and survivors under current pension laws (''current-law pension,'' formerly called ''improved pension''), section 306 pension for veterans and survivors, old-law pension for veterans and survivors, and parents' DIC. The following VA benefits are not needs-based (*i.e.,* the amount of a claimant's income or assets does not impact the benefit amount or entitlement to the benefit): Disability compensation for veterans; DIC for surviving spouses or children; death compensation for surviving parents, spouses, or children; and Spanish-American War pension. There is a minor exception to these lists: A veteran who receives disability compensation may receive additional compensation when the veteran has a parent or parents who are dependent on the veteran for support. *See* 38 U.S.C. 1115. Because VA evaluates a veteran's parent's income and assets when determining if the parent is dependent on the veteran for support, such cases are considered ''needs-based'' insofar as the parent's need is concerned.

At least one commenter expressed the belief that our proposed rule was proposing to turn benefits that are not needs-based into new needs-based benefits. It is not. This final rule does not apply to VA benefits that are not needs-based. This final rule pertains only to the VA needs-based benefits identified above. The new and revised net worth and asset-transfer rules apply only to current-law pension for veterans and survivors. This benefit is simply called ''pension'' or ''VA pension,'' unless it is necessary to distinguish between current-law pension and previous VA pension programs. Also, if it is necessary to distinguish between veterans and survivors, we may refer to the pension programs as ''veterans pension'' or ''survivors pension.''

We note that a number of commenters referred to pension as ''Aid and Attendance.'' This is a misnomer and can be confusing because a higher ''aid and attendance rate'' may be payable under all of the following VA benefit programs: Pension, parents' DIC, disability compensation, DIC (for surviving spouses), and death compensation. In addition, a veteran who receives disability compensation may receive additional compensation when the veteran has a spouse and the spousal allowance is higher if the spouse meets aid and attendance criteria. The additional ''spousal aid and attendance rate'' is available only to certain compensation beneficiaries and is not available to pension claimants. A ''housebound rate'' that is a lesser amount than the aid and attendance rate may be paid to qualifying individuals who do not qualify at the aid and attendance level. This housebound rate is available to: Veterans and surviving spouses who receive pension; veterans who receive disability compensation; and surviving spouses who receive DIC. The aid and attendance and housebound rates are sometimes collectively called ''special monthly compensation (SMC)'' when the benefit is disability compensation, ''special monthly DIC'' when the benefit is DIC, and ''special monthly pension (SMP)'' when the benefit is pension. We emphasize that this final rule does not apply to disability compensation for veterans or to DIC for surviving spouses or children. It also does not apply to Family Caregiver benefits and General Caregiver benefits authorized by 38 U.S.C. 1720G; those benefits are available to veterans with certain injuries that were incurred in or aggravated in active military, naval, or air service. This final rule only applies to needs-based benefits.

Multiple commenters expressed the belief that, like most pensions, the VA pension benefit is a benefit into which veterans previously paid so it would be available later in life. Others expressed the opinion that VA pension should not be means-tested or that it is or should be available to all veterans. We make no changes based on such comments. Although veterans certainly ''pay into'' VA pension in terms of serving their country during a period of war, VA pension is not a benefit into which veterans previously directly contributed financially. The statutes governing VA pension are found in 38 U.S.C. chapter 15. Under the current pension statutes, pension is a benefit in which the annual amount of the benefit is reduced dollar-for-dollar by annual income received. See 38 U.S.C. 1521, 1541, and 1542. VA calculates annual income by deducting or excluding (not counting) amounts noted in 38 U.S.C. 1503 and other applicable statutes, such as a portion of unreimbursed medical expenses and educational expenses.

Multiple commenters pointed out that VA no longer considers a veteran's net worth when deciding if the veteran is eligible to receive VA hospital, nursing home, or domiciliary care. For this reason, these commenters state or indicate that net worth should not be a factor for pension entitlement. Moreover, several commenters stated that the proposed provisions would cause fewer veterans to qualify for VA hospital care at Priority Groups 4 and 5. We disagree. The VA statutes governing net worth for pension entitlement (38 U.S.C. 1522 and 1543) are different than those governing net worth for hospital care eligibility (38 U.S.C. 1722). Under 38 CFR 17.36(b)(4), Priority Group 4 includes veterans who receive increased pension based on their need for regular aid and attendance or by reason of being permanently housebound. It also includes veterans determined catastrophically disabled by the VA facility where they are examined. Priority Group 5 includes veterans whom the Veterans Health Administration (VHA) determines are unable to defray the expenses of necessary care under 38 U.S.C. 1722(a). 38 CFR 17.36(b)(5). Although VHA assumes that veterans who receive pension meet Priority Group 5 criteria, veterans are not required to receive pension to qualify for Priority Group 5. To the extent that some veterans might not be entitled to pension under this final rule, this does not mean these veterans would not be entitled to VA hospital care at the same priority. VA must consider net worth as an entitlement factor for pension (38 U.S.C. 1522 and 1543); it does not have discretion in this regard as it does for hospital care eligibility. Therefore, we make no changes based on such comments.

C. Discussion of Public Comments Regarding VA's Authority To Promulgate Regulations Governing Requirements for Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits

Numerous commenters questioned VA's authority to promulgate regulations governing the requirements for net worth, asset transfers, and income exclusions in order to qualify for VA's pension program. VA disagrees with these commenters and, therefore, does not make any changes to this rulemaking based on these comments. As discussed in the proposed rule, under 38 U.S.C. 1522 and 1543, VA may not pay pension to a veteran or to a veteran's surviving spouse when the corpus of the individual's estate (and a veteran's spouse's estate, if applicable) is such that, under all the circumstances, including consideration of the individual's income and that of the individual's spouse and dependent children, it is reasonable that the individual consume some part of the estate for his or her maintenance prior to receiving pension.

VA's authority here is derived from 38 U.S.C. 501(a), which permits VA to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by VA and are consistent with those laws. VA may administer the Congressionally-created pension program by formulating policy and enacting rules to fill any gap left, implicitly or explicitly, by Congress. *See Morton* v. *Ruiz,* 415 U.S. 199, 231 (1974). These rules may effect a change in existing law, so long as VA promulgates them through a notice-and-comment procedure and its ''action is reasonable and consistent in light of the statute and congressional intent.'' *Disabled Am. Veterans* v. *Gober,* 234 F.3d 682, 691 (Fed. Cir. 2000). Inasmuch as Congress did not define what is considered reasonable consumption of net worth prior to receiving VA's needs-based pension, this rulemaking promulgates reasonable gap-filling regulations.

As previously stated, sections 1522 and 1543 require VA to deny or discontinue pension when it is reasonable to require the individual to consume some portion of his or her net worth for personal maintenance. We interpret the statutory requirement that a pension claimant must reasonably consume excessive net worth prior to receiving needs-based pension as precluding pension entitlement to an individual who has sufficient net worth for his or her maintenance (over $123,600, for 2018), transfers assets to get below that threshold, and then applies for VA pension leaving the Government to fund his or her maintenance. The text of the statute makes clear that Congress did not intend for claimants who have sufficient assets for self-support to use the pension program as an estate planning tool, under which they may preserve or gift assets to their heirs and shift responsibility for their support to the Government, at the expense of taxpayers. *See also* H.R. Rep. No. 95–1225, at 33 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5583, 5614 (Congress's intent that ''a needs-based system . . . apply only to those veterans who are, in fact, in need'').

Many commenters also pointed out that, in recent years, Congress has failed to implement legislation that would have implemented many of the changes that VA seeks to make in this rulemaking. Such failure does not negate VA's authority to provide reasonable rules in furtherance of Congress's directive for a net worth limitation. 38 U.S.C. 501(a), 1522, 1543. Moreover, VA notes that ''unsuccessful attempts at legislation are not the best of guides to legislative intent.'' *Red Lion Broad. Co.* v. *FCC,* 395 U.S. 367, 381–382 n.11 (1969). The Government Accountability Office (GAO), U.S. Senate Special Committee on Aging, and others have advocated for changes to bolster the integrity of the pension program. *See* Pension Poachers: Preventing Fraud and Protecting America's Veterans, Hearing Before the S. Special Comm. on Aging, S. Hrg. 112–542 (2012); U.S. Government Accountability Office, GAO–12–540, Veterans' Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits (2012). And Congress' contemporaneous statements in enacting the current pension program, discussed above, are clear that this program is a needs-based program intended to serve only those claimants in need. Accordingly, VA declines to make any changes to this rulemaking based on these comments.

D. Discussion of Public Comments Regarding Net Worth Provisions

1. Net Worth Limit and Definition (Proposed § 3.274(a) and (b))

Multiple commenters took issue with our proposal to use a bright-line net worth limit for pension entitlement. Several commenters argued that a bright-line net worth provision is arbitrary and does not take into account age, disability, life expectancy, rate of depletion of assets, liquidity of assets, normal living expenses for healthy dependents, nursing home status, or medical expenses in relation to income. Some commenters proposed alternative net worth calculation and decision methodologies that included these factors. A number of commenters argued that our proposed changes to net worth provisions will make it more difficult for claimants to qualify for pension, and stated their belief that not as many will qualify, causing individuals more stress during a difficult time. Some stated that claimants would essentially have to deplete their net worth to qualify. Some suggested that VA could make exceptions for veterans who are over age 75.

We make no changes based on these comments. As stated in the preamble of the proposed rule, the way that net worth decisions are made now is often inconsistent and arbitrary. *See* 80 FR 3842. According to the GAO, the current regulatory scheme has left adjudicators to their own discretion, leading to inconsistent decisions for similarly situated claimants. *Id.* Having a clear net worth limit promotes consistency and uniformity in decisions. It also reduces the amount of time claim processors have to spend on lengthy, subjective net-worth determinations—freeing them up for other claim-related activities. A clear limit will result in quicker benefits decisions for veterans and the potential for future automation. It also benefits claimants by providing a clear pension entitlement criterion that is easy to understand and apply.

While net worth determinations will no longer take into account life expectancy, rate of depletion of assets, and other factors, it is that multitude of factors that have resulted in inconsistent, and sometimes unfair, decisions. For example, we have reviewed cases in which elderly claimants with short life expectancies have been denied pension with as little as $10,000 of net worth. We have seen claims processors deny pension if assets are projected to last the claimant's lifetime or longer, and others require complete or almost complete spend-down of net worth before granting pension. Accordingly, we decline to create an exception for claimants over 75; in fact, we believe that more pension claims will be granted under these regulations than under the previous regime.

Instead, we believe the best approach moving forward, for both pension claimants and the efficiency of the system, is employing, as the net worth limit, the standard maximum CSRA prescribed by Congress. We have considered the possibility of finding a solution within the current standard, as well as other solutions commenters set forth, but many of them, such as establishing upper and lower limits, would be less favorable to claimants than a net worth limit at the maximum CSRA. We believe that setting the net worth limit at the maximum CSRA—which in 2018 is $123,600—allows more claimants to qualify for the benefit than before. Our impact analysis concurrent with the proposed rule indicated that 1,149 pension denials would have been grants (and only 40 grants would have been denials) if the maximum CSRA had been the net worth limit in fiscal year 2014. *See https://www.va.gov/orpm/RINs_2900_AO.asp* (RIN 2900–AO73).

We understand, as many pointed out, that the CSRA was prescribed by Congress for Medicaid, which is a fundamentally different program than VA pension. But it is a number that was adopted by Congress to prevent the impoverishment of the non-institutionalized spouse of a Medicaid-covered individual. Similarly, we do not desire any net worth limitation that could subject wartime veterans and

their survivors to impoverishment. *See* H.R. Rep. 95–1225, at 27 (reflecting Congress' intention to ''assure[ ] a level of assistance'' for veterans and survivors ''that places them above the official poverty line''); 44 FR 45930 (1979). Congress has indicated that individuals with net worth beyond the maximum CSRA are sufficiently protected from impoverishment for Medicaid purposes. It is no stretch, then, for VA to conclude that individuals with net worth beyond the maximum CSRA are sufficiently protected from impoverishment and do not need VA pension. Moreover, using the maximum CSRA allows pension claimants to retain a reasonable portion of their assets to respond to unforeseen events, including medical care.

Multiple commenters stated that VA's proposal to establish the bright-line net worth limit by using the CSRA prescribed by Congress for Medicaid was out of context, *i.e.,* that VA ''cherry picked'' some parts of the Medicaid resource statutes and disregarded others. According to these commenters, VA overlooked the following: (1) Medicaid covers all of the medical expenses of the institutionalized spouse; (2) there are significant differences between States in what assets are countable assets toward the CSRA; (3) the community (non-institutional) spouse is allowed to keep all of his or her income as well as part of the institutionalized spouse's income if the community spouse's income is lower than the spousal allowance; (4) Medicaid does not have a penalty period longer than 60 months; (5) Medicaid does a fairly good job of explaining its rules and making the public aware that transfers made more than 60 months before applying for Medicaid will not create any penalty; (6) Medicaid will allow trusts to be used to reduce net worth; (7) Medicaid allows the purchase of immediate annuities to reduce net worth; (8) Medicaid applies the CSRA only to married claimants, whereas VA would apply it to all claimants, whether married or single, (9) Medicaid allows community spouses to retain net worth greater than the maximum CSRA; and (10) adopting the Medicaid asset limitation for VA purposes is much more limiting and impoverishing in nature than the Medicaid system.

To be clear, these programs are governed by different statutes and serve different purposes. VA pension is a monetary benefit paid to wartime veterans and survivors to supplement their income, based on need. On the other hand, Medicaid is a health insurance program for individuals and families with low income and limited resources. As such, incorporating all of Medicaid's net worth rules into the VA pension program is neither legally required nor sensible. But, because Congress has established a level of net worth sufficient to avoid ''impoverishment'' in administering Medicaid, we find it sensible to employ that Congressional determination for VA pension. Similarly, as further discussed in the proposed rule and later in this supplementary information, we find it sensible to take aspects of the look-back period implemented in Medicaid (per GAO's recommendation) to form a look-back period.

Thus, though we reviewed these comments on Medicaid and made changes in this final rule in response to some of them, we disagree with the comments above that highlighted favorable Medicaid policies, as they overlooked particular rules of VA pension that are also favorable to claimants. For instance, although VA does not pay for medical expenses as Medicaid does, VA does deduct unreimbursed medical expenses that exceed 5 percent of the maximum annual pension rate (MAPR) allowed by Congress, to reduce income for VA purposes. Overall, we did not intend in our proposed rule to equate all aspects of VA pension to Medicaid, or to mimic other aspects of Medicaid provisions, and there is no legal requirement that any particular Medicaid policies or procedures be incorporated into VA pension.

Several commenters stated that the proposed regulations fail to provide for a maintenance income and an asset allowance, as well as an exception for a divestment of gifts and conversion of assets for a community spouse such as those provided by Medicaid rules, and these omissions are likely to result in the impoverishment of community spouses. Several commenters also stated that, under 38 U.S.C. 1522, VA is required to take into account ''all the circumstances'' of a veteran and a veteran's family in evaluating annual income and other real and personal property. Commenters stated or implied that the failure of current regulations, as well as the proposed regulations, to provide for the maintenance needs of a community spouse arguably violates VA's duty to consider ''all the circumstances'' in determining whether it is ''reasonable'' that some part of an institutionalized veteran's estate should be consumed for the veteran's maintenance.

VA makes no changes based on these comments. By selecting the maximum CSRA as the net worth limit and deducting payments for institutionalized care from net worth, we strongly disagree that these regulations do not take into account the needs of community spouses. Indeed, in this final rule, as discussed below, VA has expanded its net worth deductions for payments to care facilities other than nursing homes to ensure that ''all the circumstances'' are considered for situations where the veteran can no longer live at home. Succinctly stated, while the regulations adopted herein might depart from specific Medicaid rules—as a program with a different purpose is permitted to do—they do not leave community spouses unprotected from impoverishment.

One commenter also mentioned that VHA's net worth provisions at 38 CFR 17.111 do not take into account the amount of the maximum CSRA when determining whether a veteran is required to pay a co-payment for VA-provided extended care services. We make no change based on this comment. Noted above in the information pertaining to terminology clarifications, the VA statutes governing net worth for pension entitlement are different from those governing VA hospital care eligibility. Although VA no longer considers net worth when determining a veteran's eligibility for VA hospital care, VA is required to consider net worth when determining pension entitlement. 38 U.S.C. 1522, 1543.

Some commenters said that the bright-line net worth limit does not take into account future increases in costs of care or inflation. To the contrary, proposed and final § 3.274(a) provide for cost-of-living increases in the net worth limit to account for inflation.

Another commenter stated that, if a claimant's deductible medical expenses exceed the claimant's income, the net worth limit does not take this into account. As further discussed below, however, medical expenses affect net worth in two ways: First, a claimant's predictable medical expenses are subtracted from countable income; second, the actual payment of the medical expenses will (other things held constant) reduce assets. Thus, medical expenses exceeding income do affect net worth.

Other commenters noted that the bright-line net worth limit does not take locality differences into account. We first note that the statutory MAPRs under 38 U.S.C. 1521, 1541, and 1542 are fixed and not adjusted by locality. Second, we believe that, in choosing as our net worth limit the maximum CSRA ($123,600 in 2018) rather than the minimum CSRA ($24,720 in 2018) or any amounts within this range, we have adequately accounted for different

localities. Thus, we make no changes based on such comments.

Several commenters asserted that our proposed rule regarding the bright-line net worth limit contained faulty reasoning in stating that ''current rules require development of additional information not solicited in the initial [pension] application.'' 80 FR 3842. These commenters pointed out that having insufficient forms is a reason to change forms, not rules. Some of these commenters proposed alternative net worth decision methodologies and form modifications. While their point that rules need not be changed for a problem with forms is certainly valid, our desire to establish a bright-line limit has less to do with forms and more to do with consistency, uniformity, and clarity, as discussed above. Moreover, although some commenters stated that neither pension application nor development forms request information regarding living expenses, a claimant's completion of VA Form 21–8049, Request for Details of Expenses, has been an administrative requirement in order for claims processors to make net worth determinations. Among other things, this form includes monthly living expenses such as housing, food, utilities, clothing, and education. The information requested on this form will no longer be necessary for net worth determinations under this final rule. We further note that VA is amending application forms in conjunction with this final rule to incorporate information previously received on the VA Form 21–8049, as well as other information.

One change that we are making is to the example in proposed § 3.274(b)(4). The final rule uses a more current number (the maximum CSRA for 2018) for the net worth limit and eliminates superfluous language.

2. How Net Worth Decreases (Proposed § 3.274(f))

One commenter noted that proposed § 3.274(f)(1) is overly restrictive in providing that assets could only decrease by spending them on ''[b]asic living expenses'' or educational or vocational rehabilitation. As proposed, the rule could be read to preclude expenditures for items such as vacations, televisions, and sprinkler systems. We agree, and, therefore, we are withdrawing proposed § 3.274(f)(1)(i) and (ii) and revising § 3.274(f)(1) to provide that a claimant may decrease assets by spending them on items or services for which fair market value is received. A claimant could not, of course, spend down assets by purchasing an item whose value VA would still include as an asset—such as a $50,000 painting or gold coins—and this final rule so states. Although a claimant can certainly purchase a $50,000 painting or gold coins, the value of the painting or coins would still be included as an asset. Final paragraph (f)(1) is significantly more liberal than proposed paragraph (f)(1). We note here that, in general, VA does not require receipts or other proofs of purchase to show decreased assets, although it is permitted to request them under 38 U.S.C. 1506(1).

Due to this change and based on our further administrative review, final § 3.274(f) does not include proposed paragraph (f)(3). Proposed paragraph (f)(3) was a provision that erroneously stated that VA would ''deduct'' certain expenses from assets. VA does not deduct the value of future expenses from current assets when determining asset values; rather, VA deducts projected unreimbursed medical expenses from income when the medical expenses are reasonably predictable. Therefore, for example, if a claimant's net worth exceeds the net worth limit in a given year even though projected medical expenses have reduced income to zero, the actual payment of these medical expenses the next year may cause assets to decrease and the claimant to then qualify for pension.

We renumbered proposed paragraphs (f)(4) and (5) as final paragraphs (f)(3) and (4), respectively. We also amended the text of final paragraphs (f)(3) and (4) to reflect the clarification discussed above.

3. Residential Exclusion From Assets (Proposed § 3.275)

Multiple commenters criticized proposed § 3.275(a)(3), claiming that the definition of ''residential lot area'' is too restrictive by limiting the lot area to 2 acres (87,120 sq. ft.). Many commenters stated that claimants living in rural areas would be unfairly penalized because of zoning and other restrictions which would prevent them from being able to sell the excess land. VA disagrees because the definition of ''residential lot area'' includes the provision that the lot cannot exceed 2 acres unless the additional acreage is not marketable. The additional property might not be marketable if, for example, the property is only slightly more than 2 acres, the additional property is not accessible, or there are zoning limitations that prevent selling the additional property. Therefore, lot sizes that exceed 2 acres may still be excluded from the claimant's asset calculation if the additional property is deemed unmarketable. However, VA recognizes that the proposed provision that lots must be ''similar in size to other residential lots in the vicinity of the residence'' may be unnecessarily restrictive for claimants with less than 2 acres, but more acreage than their neighbors. Therefore, the final rule does not include the ''similar in size to other residential lots in the vicinity'' requirement.

Several commenters interpreted the proposed rule to mean that VA would require claimants to sell their residences and/or their land if the residential lot area was greater than 2 acres. We note that when a claimant's residential lot is greater than 2 acres, VA will still exclude the value of the residence and 2 acres worth of property from the claimant's assets. VA is not requiring claimants to sell either their residence or land. VA will only include the value of the additional property in the asset calculation.

One commenter stated that the 2-acre limit would cause claimants to sell their land, which would lead to more development, thus endangering wildlife and harming the environment. As noted above, VA is not requiring any claimant to sell his or her land, nor can we speculate on whether a claimant might do so or for what purpose the land might be used. The concern has been taken into consideration, but we make no change to the final rule based on the comment.

One commenter stated that the rule does not address treatment of property listed for sale. VA excludes the value of the primary residence from net worth (and includes the value of other residences) regardless of whether or not the property is listed for sale. We make no change based on this comment.

Several commenters noted that it is already VA policy to exclude from net worth a claimant's residence and a reasonable lot area and did not agree with VA's decision to place a limit on the lot area VA considers reasonable. As stated in the proposed rule, the limit supports our policy choice to exclude a claimant's primary residence from assets, while at the same time placing a reasonable limit on excluded property to preserve the pension program for veterans and survivors who have an actual need. We make no changes based on such comments.

Many commenters questioned why the residential lot exclusion is based on acreage rather than value. VA clarifies that the purpose of using acreage instead of value is so that claimants who live on small, but valuable land (regardless of what that value is derived from) are not penalized. For example, a claimant could live in a small, meager

home in northern Virginia that has been passed down for generations. Even though the house is meager and the lot is small, because property values in northern Virginia have skyrocketed over the last few decades, that claimant might be disadvantaged for not moving to cheaper land. VA further clarifies that the definition of ''residential lot area'' is specifically designed to provide consideration to claimants who live in residences on small but highly valuable lots, as well as claimants who live in residences on large but less valuable (or at least partially unmarketable) lots.

One commenter asked if VA claims adjudicators would require claimants to provide property deeds or other evidence to determine lot size. Under 38 CFR 3.277(a), claims adjudicators always have a right to request that a claimant submit evidence to support entitlement to a benefit. We make no change based on this comment.

Many commenters questioned why proposed § 3.275(b) included the provision that ''[i]f the residence is sold, any proceeds from the sale is an asset except to the extent the proceeds are used to purchase another residence within the same calendar year as the year in which the sale occurred.'' These commenters stated that it is unreasonable to expect claimants to sell a residence and buy a new one in the same year, especially if the sale occurs toward the end of the year. Although we understand their point, 38 U.S.C. 5112(b)(4) requires that changes in net worth be recognized at the close of the calendar year in which the change occurred, and we make no change based on these comments. We note that this provision only applies to home sales after pension entitlement is established. The final rule makes this clear by providing that it only applies ''[i]f the residence is sold after pension entitlement is established.'' If the residence is sold at any time before the date of claim, *i.e.,* within the 3-year look-back period, another residence could be purchased (or funds from the sale could be used to purchase other items or services for fair market value) at any time before the date of claim without penalty or effect.

For residential sales after pension entitlement is established, the rule provides that the residences need to be sold and purchased within the same calendar year because 38 U.S.C. 5112(b)(4) provides that the effective date of reduction or discontinuance of pension due to a change in net worth is the end of the year in which net worth changes. Therefore, for example, if an individual is receiving pension and in July 2017 receives proceeds from the sale of a residence which make net worth excessive, the statutory effective date of discontinuance is December 31, 2017, and VA would discontinue pension as of January 1, 2018. However, if the claimant spends down the funds or purchases another residence before the effective date, VA would not discontinue pension. We understand and recognize the disparity between a person who sells his or her residence in January, for example, versus a person who sells his or her residence in December. However, we are bound by the effective date statute. We note that if an individual sells his or her residence in December 2017, and spends down the net worth or purchases a new residence in February 2018, VA would discontinue pension as of January 1, 2018, and resume pension as of March 1, 2018, assuming entitlement factors continue to be met and the claimant informs VA of the spend-down or purchase before VA's decision regarding the discontinuance becomes final. Of course, these examples assume that the sale of the residence makes net worth excessive; not all residential sales would result in discontinuance.

One commenter stated that the rule is unfair to those who choose to rent—rather than purchase another home—after selling their residence. Others commented more generally that rent (to a care facility or otherwise) should be deducted from net worth. To the extent there is a concern about the effect of selling a residence in order to move into a nursing home or other care facility, we believe that our changes to the deductible medical expense provisions, described below, will alleviate much of this concern. Under final § 3.278(d), amounts paid to a care facility for lodging will often be considered a medical expense, deducted from income pursuant to 38 U.S.C. 1503(a)(8). However, as to the request to deduct other rent payments from net worth, we are unaware of any statutory authority for doing so. While we are continuing our longstanding policy of excluding the value of primary residences from *assets,* it does not follow that we have an obligation or the authority to deduct rent from *income.* To be clear, neither rent payments (to a non-care facility) nor mortgage payments are deducted from income, and money set aside for both rent payments and mortgage payments (prior to being spent) are included as assets. It is only the primary residence's value that is excluded from assets. We make no changes based on such comments.

One commenter asked that a definition of ''proceeds from the sale'' be included. To alleviate any confusion, the final rule refers to ''net proceeds from the sale.'' We believe this change adequately addresses the commenter's concern. The definition is readily available from many sources. The term net proceeds refers to the amount of money a seller receives from the sale. It is the sales price of the residence minus selling costs. Net proceeds do not include payoff of existing mortgages or fees such as brokerage commissions and closing costs.

4. Other Net Worth Matters

One commenter believed that VA's asset calculation methodology was not explained in detail in the proposed regulation. We disagree; proposed and final §§ 3.274 and 3.275 address the types of assets included and excluded in an asset calculation, VA generally accepts the statements of its claimants regarding assets unless there is reason to question them, and VA does not plan to change this practice.

One commenter seemed to have misunderstood proposed § 3.275(b)(1)(i), which provides that VA will not subtract from a claimant's assets the amount of mortgages or other encumbrances on a claimant's primary residence. We clarify here that VA excludes a claimant's primary residence from assets, regardless of the value of the residence. Section 3.275(b)(1)(i) simply means that VA does not subtract mortgages and encumbrances on a primary residence from other assets. For example, assume a claimant owns a primary residence worth $100,000, still owes $20,000 on the residence, and the claimant's only other asset is a $50,000 bank account. Assets for VA purposes would total $50,000 because we exclude the primary residence and do not subtract the mortgage on a primary residence from other assets. Under § 3.275(a), mortgages and encumbrances specific to the mortgaged or encumbered property (that is not the primary residence) are deducted from the value of the property. One commenter relatedly questioned the treatment of liens on a property. Liens qualify as encumbrances. We make no change based on these comments.

Some commenters questioned why the income and assets of any child living in the primary residence must be considered as included in an applicant's net worth. Others stated that VA should not bar a veteran's pension because of a child's net worth, to include an inheritance or job income. We make no change based on these comments because we believe statute governs this issue. Under 38 U.S.C. 1521(h)(1) and 1541(g), a veteran's or surviving spouse's income generally includes a

dependent child's income. However, under 38 U.S.C. 1522(a) and 1543(a), a veteran's or surviving spouse's assets do not include a child's assets (though the rate of pension may be impacted by a child's assets, 38 U.S.C. 1522(b) and 1543(a)(2)). Proposed and final § 3.274(b)(3) and (c)(1) and (2) are consistent with statute.

One commenter believed that a veteran's assets should not include the assets of his or her spouse if the spouse and the veteran do not reside together. Again, this issue is addressed by statute and we make no change based on this comment. *See* 38 U.S.C. 1521(h)(2).

Another commenter stated that a surviving child's assets should not include the assets of his or her guardian. We make no changes based on this comment because, by statute, the assets of an individual are included when the child is residing with the individual and the individual is legally responsible for the child's support. *See* 38 U.S.C. 1543(b). The same commenter stated that trust corpus should not be included in a disabled child's assets. As discussed further below, pursuant to final § 3.276(a)(5)(ii), trusts are generally not included as an asset, unless they can be entirely liquidated for the claimant's own benefit.

One commenter believed that assets should not include personal property. We make no changes based on this comment because most general definitions of assets include personal property. We note that, under proposed and final § 3.275(b)(2), VA does not include as an asset the value of personal effects suitable to and consistent with a reasonable mode of life, such as appliances and family transportation vehicles. We further note that this provision is not a change from past practice.

Another commenter stated there should be a clear and defined difference between net worth and liquid net worth. The commenter seemed to believe that VA bases its pension entitlement decisions on liquid assets alone. Normally, we think of a liquid asset as a cash asset or an asset that can easily be converted to cash. Real estate and other types of personal property are considered to be non-liquid assets. Save certain exceptions discussed in this preamble and noted in the final rule, VA does not distinguish between liquid and non-liquid assets when making pension entitlement determinations. A claimant who has $50,000 in a bank account and a claimant who owns property worth $50,000 (that is not his or her primary residence) are both considered to have $50,000 in assets. VA generally accepts as true a claimant's statement regarding the value of his or her assets in the absence of conflicting information. We make no changes based on the comment.

Multiple commenters complained that VA is counting income twice: Once for its net worth determinations and again in the calculation of the pension entitlement rate. Although we are sympathetic with this concern, we are again bound by the pension statutes, and thus make no changes. Sections 1522 and 1543 of 38 U.S.C. require VA to consider the amount of claimants' and certain dependents' income when making net worth determinations. Sections 1521, 1541, and 1542 of 38 U.S.C. then require VA to reduce the MAPRs by the annual income of the claimant and certain dependents. One commenter asked us to provide additional justification; however, we decline to do so because we believe the statute is sufficient. We re-emphasize that a claimant's reasonably predictable projected unreimbursed medical expenses can be deducted from income when calculating a claimant's net worth. Therefore, for many claimants who are paying in-home care or facility expenses for themselves or a dependent, the income component of net worth will be zero, and this issue will not be a concern.

Some commenters appeared to believe that total net worth would have to be spent on the applicant's needs in order to obtain pension, leaving nothing for the needs of the surviving spouse (and child) in the future. As clarified above, a child is not required to consume his or her assets for a parent to qualify for pension. 38 U.S.C. 1522(a) and 1543(a). And, again, we have chosen a net worth limit for pension that enables a claimant to retain a reasonable portion of assets to respond to unforeseen events.

One commenter suggested that the proposed rule makes no provision for small business owners or farmers who own property and have to liquidate assets to provide income for themselves and employees. The commenter questions how small business assets will be calculated if they are sold to pay employees. We believe that our definition of ''fair market value'' covers such a situation and make no change based on the comment. Although an individual might sell an asset for less than its appraised value, depending on the circumstances and in the absence of information showing otherwise, VA could consider such a sale to be a transfer for fair market value and would consider the net proceeds from the sale to be an asset. Distribution of the net proceeds to employees would then decrease that individual's assets.

A commenter asked: If VA determines the need to re-evaluate net worth based on a matching program with the Internal Revenue Service (IRS), how will VA know what unreimbursed medical expenses exist for the many elderly individuals who do not file income taxes? In response to this commenter, at the time a veteran or survivor applies for VA pension, VA uses a claimant's projected unreimbursed medical expenses to calculate the claimant's pension entitlement rate as long as the claimant reports the expenses and the expenses are reasonably predictable. It is the claimant's responsibility to keep VA informed at all times of any changes that affect continued entitlement.

A commenter noted that this rulemaking does not address how VA would treat real property held as a life estate. The commenter asked how VA would treat a life tenant's primary residence if the residence is sold and suggested that VA adopt the IRS's valuation of life estates. Because the proposed rule did not address the treatment of life estates, we are concerned that addressing this issue in the final rule would deprive interested parties the opportunity to meaningfully comment on any related proposal. VA will consider whether to address this issue in a future rulemaking. However, VA is unable to make any changes to this rulemaking based on these comments.

5. Correction of Net Worth Effective-Date Table

In the preamble of our proposed rule, we included an explanatory derivation table to summarize the rather complex effective dates pertaining to net worth. *See* 80 FR 3845. Unfortunately, the table contained two errors. The word ''increase'' in the ''Effective Date'' column in the first row should have been ''decrease.'' Also, the second row of the ''Change from current rule'' column should not have included language regarding a certified statement. We are re-publishing the table with those corrections here, although we now use ''New § 3.274'' and ''Change from Previous Rule'' in the column headings.

TABLE 1—NET WORTH (NW) EFFECTIVE-DATE PROVISIONS DERIVATIONS

New § 3.274	Derived from	Situation	Effective date	Change from previous rule
3.274(g)	3.660(d)	NW has decreased after VA denial, reduction, or discontinuance.	Entitlement from date of NW decrease if information received timely.	No date change. Addition of certified statement requirement.
3.274(h)	3.660(a)(2)	NW has increased and reduction or discontinuance necessary.	End-of-the-year that NW increases.	No date change.
3.274(i)(1)	New Cross-Reference.			
3.274(i)(2)(1)	3.660(d)	Dependent child's NW has decreased and adding the child results in a rate decrease for the veteran or surviving spouse.	End-of-the-year that NW decreases.	No date change
3.274(i)(2)(2)	3.660(c)	Dependent child's NW has increased and removing the child results in a rate increase for the veteran or surviving spouse.	Date of receipt of claim for increased rate based on child's NW increase.	No date change. Claim required for increased rate.

E. Discussion of Public Comments Regarding Asset Transfer Provisions

1. Inclusion of Annuities and Trusts in Definition of ''Transfer for Less Than Fair Market Value'' (Proposed § 3.276(a)(5)(ii))

Multiple commenters expressed that certain types of trusts and annuities should not be included in the definition of ''transfer for less than fair market value.'' We agree that certain annuities and trusts should not be included as a transfer for less than fair market value. Thus, based on a number of comments discussed below, we are revising § 3.276(a)(5)(ii) to provide that a transfer for less than fair market value means a voluntary asset transfer to, or purchase of, any financial instrument or investment that reduces net worth by transferring the asset to, or purchasing, the instrument or investment unless the claimant establishes that he or she has the ability to liquidate the entire balance of the asset for the claimant's own benefit. We also provide that, if the claimant establishes that the asset can be liquidated, the asset is included as net worth.

First, some commenters misunderstood proposed § 3.276(a)(5)(ii), believing that a transfer to any revocable or irrevocable trust would be considered a transfer for less than fair market value. We want to be clear that transfers to annuities or trusts over which a claimant retains control and the ability to liquidate are transfers for fair market value under this final rule and are not subject to a penalty period. Annuities and trusts that can be liquidated for the benefit of the claimant will instead be considered as an asset in net worth calculations. Of course, we would not require claimants to liquidate their assets; we simply would not consider funds over which a claimant still has complete control to have been transferred for less than fair market value. Such funds are assets.

Second, several commenters noted that some transfers to annuities are mandated upon retirement. The conversion of deferred accounts to an immediate annuity is required under some retirement plans. We concur with these comments and final § 3.276(a)(5)(ii) excludes mandatory conversions. This means that we will not count, as a covered asset, the amount transferred to such an annuity, although distributions from the annuity will continue to count as income.

Third, a commenter asked us to explain why annuities and trusts are included in proposed § 3.276(a)(5)(ii) as ''any financial instrument or investment that reduces net worth and would not be in the claimant's financial interest.'' The commenter asked us to explain why annuities and trusts are not in the financial interest of the claimant. We agree that this language is confusing and would be difficult to apply, and it has been removed.

Fourth, one commenter requested we explicitly exclude implied trusts from the definition of a trust by replacing the word ''arrangement'' in § 3.276(a)(5)(ii)(B) with the word ''instrument.'' We agree with this comment, and the final rule uses the word ''instrument'' as suggested.

Several commenters asked why VA seemed to be singling out annuities and further pointed out that bank accounts and stocks are sometimes unwise investments for seniors. As noted in the proposed rule, annuities and trusts are simply two examples of instruments that could possibly be used to restructure a claimant's assets to make it appear that the claimant's net worth is less than it is. This rulemaking is not an attempt to eradicate all unwise investments undertaken by seniors; it is an effort to discourage those who are financially secure from transferring assets to qualify for VA pension. Asset transfers to stocks, bonds, or bank accounts do not reduce net worth at the time of transfer.

One commenter questioned why establishing a trust or annuity was considered a ''less than fair market value'' transfer. That commenter also stated that veterans should not be penalized for establishing trusts or annuities for purposes not related to VA pension. Our response is two-fold. First, these instruments are considered transfers of less than fair market value because they are the primary tools of the over 200 organizations identified by the GAO as manipulating assets to reduce a claimant's net worth. *See* GAO–12–540, at 15–21. The GAO chronicled the misleading marketing strategies, erroneous information, and commissions and fees charged by financial planners that raise significant doubt about considering such instruments fair market value transfers. *Id.* Second, given the changes to proposed § 3.276(a)(5) noted above and the fact that there is no penalty for trusts established on behalf of a child incapable of self-support (§ 3.276(d)), transfers prior to the look-back period (§ 3.276(e)), or claimants whose net worth would have been below the bright-line limit regardless of the transfer (§ 3.276(a)(2)(iii)), we believe that individuals transferring assets for reasons completely unrelated to VA pension will be penalized rarely, if ever.

Many commenters thought that establishing a trust and/or annuity under the proposed regulation would always result in a penalty period. As

noted above, that is not the case. Only when assets are transferred during the 3-year look-back period to a trust or annuity that is incapable of being liquidated, and when net worth would have been excessive without such transfer, will a penalty period be assessed based on the portion of the transferred assets that would have made net worth excessive. For example, a veteran transfers $90,000 into an irrevocable trust one year before she claims VA pension. The veteran has $10,000 remaining in a checking account. Because the $90,000 transfer would not have made her net worth excessive, this claimant incurs no penalty period. We expect the asset transfer changes to affect a very small number of pension claimants, while nevertheless, helping bolster the integrity of the program by counteracting the hundreds of financial planners noted in the GAO report that are targeting and enabling those who are not in financial need to transfer assets and qualify for VA pension.

Several commenters expressed confusion regarding how VA would value an annuity. We believe the changes above clarify the issue. If an annuity cannot be liquidated, then the annuity is not considered an asset; however, distributions from the annuity count as income (as further discussed below) and the purchase could warrant a penalty period. If the annuity can be liquidated for the claimant's benefit, the annuity purchase is included as an asset.

One commenter stated that the purchase of an immediate annuity meets the definition of an installment sale. VA's current procedure manual defines an installment sale for pension purposes as any sale in which the seller receives more than the sales price over the course of the transaction. However, there are different types of annuity plans, and the seller (annuitant) might not receive more than the sales price over the course of the transaction, for example, if the plan terminates payments upon the seller's death. Although the commenter draws this comparison to an installment sale in furtherance of his argument that annuity payments should not be treated as income, Congress has spoken explicitly on the question of whether annuity payments are income, as further discussed below. *See* 38 U.S.C. 1503(a) (''all payments of any kind or from any source (including . . . retirement or annuity payments . . .),'' shall be considered income unless expressly excluded by statute). We make no change based on the comment.

Some commenters noted that § 3.276 does not provide a specific exemption for purchase of burial policies or planning for funeral and final expenses. VA would regard the purchase of a burial policy as a fair market value purchase. In addition, VA deducts from income certain family members' final or burial expenses. 38 U.S.C. 1503(a)(3)-(4); 38 CFR 3.272(h). We make no change based on these comments.

2. Presumption Regarding Asset Transfers (Proposed § 3.276(c))

Many commenters expressed concerns with the presumption and the ''clear and convincing'' standard of evidence VA proposed in § 3.276(c). *See* 80 FR 3860. Several commenters stated that the evidentiary standard set forth in proposed § 3.276(c) conflicted with the standard permitted by 38 U.S.C. 5107(b). Section 5107(b), commonly known as the ''benefit of the doubt'' rule, states that ''[w]hen there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, [VA] shall give the benefit of the doubt to the claimant.'' After further consideration, we agree that a claimant should not be subject to the ''clear and convincing'' standard when attempting to prove that an asset transfer was the result of fraud, misrepresentation, or unfair business practice. Accordingly, final § 3.276(c) is retitled and revised to simply state that VA will not consider an asset as a ''covered asset'' if the transfer was the result of fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to VA pension; it also provides examples of evidence that will support the exception. This revision preserves the ''benefit of the doubt'' for claimants. We thank the commenters for their input on this issue.

3. Exception for Trust Established for Child Incapable of Self-Support (Proposed § 3.276(d))

Multiple commenters requested that we expand the trust exception to children disabled after age 18, as well as children of the surviving spouse (and not the veteran). We decline to do so. Statute defines ''child'' for VA purposes to include children of the veteran who became permanently incapable of self-support before their 18th birthday, not after. *See* 38 U.S.C. 101(4)(A); *see also* 38 CFR 3.57(a). Nevertheless, as noted above, many transfers to any child will result in no penalty period. Only when assets are transferred or gifted during the 3-year look back period, and the asset would have made net worth excessive, will a penalty period be calculated based on the portion of the transferred assets that would have made net worth excessive. For example, a surviving spouse establishes a $90,000 trust for the surviving spouse's disabled child (who is not the veteran's child) one year before the surviving spouse claims VA pension. The surviving spouse has $20,000 remaining in a checking account. Because the $90,000 transfer would not have made the surviving spouse's net worth excessive, no penalty period is assessed. As noted above, we expect the asset transfer changes will affect a very small portion of pension claimants.

One commenter expressed the belief that the exception should apply where distributions from the trust to a veteran or spouse are used for care rendered to the incapable child, shelter, and other expenses. We have considered the suggestion, but ultimately believe that the language of proposed § 3.276(d)(2) more precisely executes the goal of this limited exception. Therefore, no change is warranted.

Some commenters stated that VA should overturn a VA precedential General Counsel opinion, VAOPGCPREC 33–97, to conform to special needs trust laws at 42 U.S.C. 1396p(d)(4)(A) and (C). VA declines to make any changes based on this comment. The statute cited by the commenters pertains to the treatment of certain special needs trusts under SSI law. The statute does not apply to VA. Another commenter asked that VA ''exempt'' transfers to any trusts allowed under SSI law. As explained above and in the supplementary information to the proposed rule, SSI employs a significantly lower net worth limit than VA will be using and VA need not implement the exact same limits and exceptions as other needs-based programs governed by separate statutes.

Multiple commenters requested that we provide a general hardship exclusion. One commenter noted that there are times when individuals sell assets under market value because they have to find liquidity and a means of meeting their obligations. We interpret this comment to mean that if, for example, an individual had property appraised at $10,000, the individual might be required to sell the property for $6,000 because no buyer could be found to purchase the property at the appraised value. We believe that our definition of ''fair market value'' would adequately cover this situation, and VA would consider such a sale to be a transfer for fair market value. More generally, VA does not agree that a

general hardship exclusion should be included because (1) it would result in inconsistent benefit decisions, and (2) all pension claimants are under hardship, considering the very nature of this needs-based benefit. Therefore, we make no changes based on such comments.

4. Penalty Period Calculation and Length (Proposed § 3.276(e))

Multiple commenters pointed out an error in our proposed penalty period calculation that resulted in significantly longer penalty periods for surviving spouses and surviving children as compared to veterans, as well as longer penalty periods for single veterans as compared to married veterans. Many commenters stated that the proposed penalty period was discriminatory and violated the Constitution. We proposed to use a claimant-specific MAPR as a divisor when calculating a claimant's penalty period. We agree that our proposal would have produced unfair and undesirable results and are grateful to all of those who identified this error. We have amended proposed § 3.276(e); final § 3.276(e)(1) uses a single divisor for all claimants, which will result in equal penalty periods for equal amounts of precluded asset transfers regardless of the type of claimant. The single divisor is the MAPR in effect on the date of the pension claim at the aid and attendance level for a veteran with one dependent. As stated in the proposed rule, we divide that amount by 12 and drop the cents. We chose this rate because most of VA's pension claimants qualify at the aid and attendance level and because a higher divisor results in a shorter penalty period. The penalty period calculation example at final § 3.276(e)(4) reflects the single divisor. One commenter asked the purpose of using the benefit amount to calculate the penalty period. Although the commenter was possibly referring to our mistake in using the claimant-specific MAPR for penalty period calculations, we note that the purpose of the penalty period calculation is to approximate the number of months that a claimant could have used the assets for his or her own needs rather than disposing of them.

Many commenters wrote that a penalty period of up to 10 years is excessive, essentially resulting in a ''permanent'' denial for most claimants due to their age and life expectancy at the time of application. Some commenters suggested that VA set a maximum of 36 months as the penalty period. Based on the comments we received, we decided to shorten the maximum penalty period to 5 years. Under proposed and final § 3.276(e)(2), a penalty period begins on the first day of the month that follows the last asset transfer. Therefore, having a maximum 36 month penalty period would result in no penalty if the asset transfer occurred 3 years before the date of the pension claim. Instead, we think a 5 year maximum provides the appropriate balance of protecting the integrity of the pension program, while avoiding the ''permanent'' denials that could have resulted with a 10-year maximum penalty, given the age of many pension claimants. We further emphasize that, under proposed and final § 3.276(e), only that portion of assets that would have made net worth exceed the bright-line limit is subject to penalty. We appreciate the public comments on this issue.

5. Penalty Period Recalculations (Proposed § 3.276(e)(5))

Numerous commenters requested that the time limit for curing asset transfers be amended and that VA allow partial cures. We agree that our proposal did not allow adequate time to cure asset transfers and did not allow enough time for claimants to notify VA of the cure. We also agree that partial cures are acceptable and should constitute a basis for recalculation. We have amended proposed § 3.276(e)(5) to allow claimants 60 days following a penalty period decision notice to cure or partially cure a transfer and allow 90 days following a penalty period decision notice to notify VA of the cure. We are grateful to all of those who suggested these changes.

6. Other Comments Regarding Proposed § 3.276, Asset Transfers and Penalty Periods

Several commenters asked why we are making changes regarding asset transfers when the impact analysis for the proposed rule stated that only 1 percent of claimants transfer assets. VA is making these changes to protect the integrity of the pension program and to counteract the hundreds of organizations targeting elderly veterans and spouses with financial schemes that wrest away these individuals' own assets for the promise of qualifying for VA pension. *See* GAO 12–540. VA believes that the changes are an important improvement over past practices, regardless of the number of claimants that have transferred assets in the past. We note that the 1 percent of claimants estimated to transfer assets before claiming pension was simply an estimate—nevertheless, whether that estimate is high or low, maintaining the regulatory status quo would only serve to condone these financial schemes noted by GAO, which are reported to charge seniors up to $10,000 in fees for these transfers and then leave these individuals locked out from their assets, potentially ineligible for Medicaid for a period of time, and exceedingly vulnerable to unforeseen events.

Multiple commenters expressed concern that the asset transfer provisions would be applied retroactively. In order to ease this concern, paragraphs (a)(7) and (b) of final § 3.276 explicitly state that VA will not ''look back'' to a time before the effective date of the final rule. VA will disregard asset transfers made before that date.

One commenter stated that claims are already being denied under these asset-transfer provisions. We are unaware of such cases; however, we note that VA's previous asset-transfer provision at 38 CFR 3.276(b) did state that VA would not regard certain asset transfers as a reduction of net worth. For example, VAOPGCPREC 33–97, mentioned above, states that VA should include trust assets in net worth calculations if the trust assets are available for use for the claimant's support. This applied to pre-claim transfers as well, although 38 CFR 3.276(b) did not so state. This would also be true under this final rule and we make no change based on the comment.

Many commenters were concerned that any transfer of assets such as a gift to family members or charitable donations would cause VA to impose a penalty period. Not all gifts and charitable donations are prohibited or will result in a penalty period. Only when assets are transferred or gifted during the 3-year look back period, and the asset would have caused or partially caused net worth to be excessive, will a penalty period, not to exceed 5 years, be calculated based on the portion of the transferred assets that would have made net worth excessive. For example, a veteran gives $90,000 to charity one year before she claims VA pension, and she has $10,000 remaining in a checking account. Because the $90,000 amount transferred would not have made net worth excessive, no penalty period is assessed. Again, we expect the asset transfer changes will affect a very small portion of pension claimants, while bolstering the integrity of the program.

Multiple commenters expressed concern that a look-back period would delay claims processing and would create undue stress and hardship if claimants have to provide VA with 3 years' worth of bank statements and other documentation. VA generally will not require 3 years' worth of documentation from claimants, but will only require additional documentation

in some instances. VA will use matching programs with other government agencies to determine whether an asset transfer constituted transfer of a covered asset. In accordance with § 3.277(a), VA may in its discretion require documentation. This requirement for document production is permissive on the part of VA. Not every case will warrant such documentation. We make no changes based on such comments.

One commenter asked how VA would determine the uncompensated value of an asset under § 3.276, and who within VA will make these determinations. The commenter also wanted to know if VA will conduct application review conferences like Medicaid, and if so, who will conduct the conferences. VA has no plans to conduct application review conferences under this final rule. Rather, VA adjudicators will render determinations on value based on the best available information, though they will generally accept, as true, statements that claimants make on their application forms, unless there is reason to question the statements. We make no change based on the comment.

One commenter stated that VA does not have educated staff members who are able to estimate property values and that the rulemaking gives VA claims processors the ability to approve or disapprove pension claims based on the claims processor's personal assumption of value. We disagree. Final § 3.276(a)(4) defines ''fair market value'' as the price at which an asset would change hands between a willing buyer and willing seller who are under no compulsion to buy or sell and who have reasonable knowledge of relevant facts, and further states that VA will use the best available information to determine fair market value, such as inspections, appraisals, public records, and the market value of similar property, if applicable. We believe the final rule makes it clear that VA does not rely on the personal assumptions of a claims processor to value assets and, as previously mentioned, claims processors have the authority, under 38 U.S.C. 1506 and 38 CFR 3.277(a), to request additional information when a claimant's estimate of property values is suspect. VA declines to make any changes based on the comment.

One commenter took issue with our proposal to use the best available information to determine fair market value, such as inspections, appraisals, public records, and market value of similar property, if applicable. The commenter apparently interpreted this to mean that VA would be hiring third parties to provide such information. This interpretation is not accurate, and VA has no intention of hiring non-governmental employees to research property values. As indicated above, the use of independent sources to assist VA in determining asset values, when necessary, is longstanding VA policy authorized by statute and regulation, and no change is warranted based on the comment.

One commenter stated that applicants for DIC should not have to disclose asset transfers on VA Form 21P–534, Application for Dependency and Indemnity Compensation, Survivors Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable). The commenter also expressed belief that DIC and survivors pension applications should be separate forms. As stated above, in the information regarding needs-based benefits, this final rule applies only to needs-based benefits; and DIC for surviving spouses and children is not a needs-based benefit. We also understand the commenter's view that DIC and survivors pension should be separate applications; however, 38 U.S.C. 5101(b)(1) provides that, for surviving spouses and children, a claim for DIC must also be considered a claim for survivors pension, and a claim for survivors pension must also be considered a claim for DIC. (Either claim must also be considered a claim for accrued benefits.) Accordingly, we make no changes based on this comment.

One commenter noted our mistake in the preamble of the proposed rule, with respect to the beginning date of the penalty period. In the preamble, we said, ''[u]nder proposed § 3.276(e)(2), the penalty period would begin on the date that would have been the payment date of an original or new pension award if the claimant had not transferred a covered asset and the claimant's net worth had been within the limit.'' 80 FR 3849. This was an error because proposed § 3.276(e)(2) actually provided that the penalty period would begin on the first day of the month that follows the date of the last transfer. 80 FR 3861. No changes are necessary in this regard because the proposed regulatory text correctly stated the rule and is more advantageous to claimants than the erroneous preamble statement.

F. Discussion of Public Comments Regarding Deductible Medical Expense Provisions

We received almost 300 comments that pertained to our proposed medical expense provisions. Many predicted dire consequences if the proposed regulations were to be implemented, including forcing claimants into nursing homes and onto Medicaid, thus increasing costs to taxpayers, creating unfunded mandates to States, affecting small businesses (such as care facilities), and forcing seniors to avoid seeking care or taking prescribed medications due to lack of affordability. Based on some of these comments as well as our own internal administrative review, this final rule reflects a number of changes from the proposed rule that we believe will allay most, if not all, of the commenters' concerns.

1. Deductible Medical Expenses for In-Home Care Attendants, Care Facilities Other Than Nursing Homes, and Custodial Care

Statute permits VA to deduct amounts paid by a veteran, veteran's spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 percent of the maximum annual rate of pension (including any amount of increased pension payable on account of dependents, but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child. *See* 38 U.S.C. 1503(a)(8). For parents' DIC purposes, VA ''may provide by regulation for the exclusion from income under [section 1315] of amounts paid by a parent for unusual medical expenses.'' 38 U.S.C. 1315(f)(3).

Neither statute defines ''medical expenses.'' As we mentioned in the preamble of the proposed rule, there is currently no regulation that adequately defines ''medical expenses'' for VA purposes—*i.e.,* for purposes of the medical expense deduction from countable income for VA needs-based benefit calculations. *See* 80 FR 3850. VA's primary guidance on the topic was issued in October 2012 as Fast Letter 12–23, Room and Board as a Deductible Unreimbursed Medical Expense. Multiple commenters mentioned this fast letter in their comments, discussed further below.

2. Definitions for Medical Expense Deduction Purposes

We received many comments pertaining to our definitions of various terms, including custodial care, health care provider, ADLs, and IADLs. We first defined a health care provider to mean an individual licensed by a State or country to provide health care in the State or country in which the individual provides the health care, as well as a

nursing assistant or home health aide who is supervised by such a licensed health care provider. Some commenters asked us to remove the supervision or licensing requirements. We make no changes based on these comments. In our view, it is essential that health care providers be appropriately licensed. To the extent these comments are based on confusion regarding when VA requires an attendant to be a health care provider, we note here that in-home attendants are not often required to be health care providers. Paragraph (d) of final § 3.278, discussed below, makes this clear.

Numerous commenters urged us to expand our definition of ADLs. Some commenters suggested that we use the definition of ADLs from the Medicare Benefit Policy Manual which is referenced in Fast Letter 12–23. The Medicare Benefit Policy Manual, which provides that custodial care is not covered under Medicare, describes activities of daily living as including, for example, ''assistance in walking, getting in and out of bed, bathing, dressing, feeding, and using the toilet, preparation of special diets, and supervision of medication that usually can be self-administered.'' Medicare Benefit Policy Manual, Chapter 16—General Exclusions from Coverage, *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c16.pdf* (last visited Feb. 2018). The purpose of this particular reference in the Medicare Benefit Policy Manual is to describe custodial care, in general terms, rather than to define ADLs. This reference does not distinguish between ADLs and IADLs. We reviewed 33 regulations in the Code of Federal Regulations that pertained to ADLs. Ten of these were in VA's title 38. The other 23 were in titles 7, 20, 24, 29, 32, 42, and 45. We also reviewed other sources. A 1963 study limited ADLs to ''bathing, dressing, going to the toilet, transferring, continence, and feeding.'' Sidney Katz, et al., ''Studies of Illness in the Aged, The Index of ADL: A Standardized Measure of Biological and Psychosocial Function,'' Journal of the Am. Med. Assoc., Vol. 185, No. 12, 914–919 (Sept. 21, 1963). The IADLs were added later. Since that time, health, insurance, and governmental agencies have used these definitions for various purposes. There is now considerable variation between sources with respect to the activities included as an ADL. After further consideration, we have added, in § 3.278(b)(2), ''ambulating within the home or living area'' to our list of ADLs. This addition is consistent with the U.S. Census Bureau's Survey of Income and Program Participation, which lists the following ADLs: ''difficulty getting around inside the home, getting in/out of a bed/chair, bathing, dressing, eating, and toileting.'' *https://www.census.gov/topics/health/disability.html* (last visited Feb. 2018). Other governmental regulations also include mobility or ambulation to some extent. *See* 7 CFR 1944.252; 32 CFR 728.4(h); 38 CFR 51.120(b)(1); 38 CFR 52.2; 38 CFR 71.15; 42 CFR 409.44(c)(1)(iv); 42 CFR 483.25(c).

Several commenters asked us in particular to define ''handling medications'' as an ADL instead of an IADL. Although we decline to do this, we note here that there is a difference between ''medication administration'' and other sorts of assistance with taking medications such as medication reminders. Medication administration, if performed by a health care provider, would be a health care expense under § 3.278(c)(1). A medication reminder from a provider who is not a health care provider would not be a medical expense unless the individual requires custodial care and the provisions of final § 3.278(d) apply.

Many commenters also urged us to include IADLs in the definition of ADLs or, similarly, to include IADLs alone as medical expenses. We note that the final rule liberalizes the circumstances in which payment for assistance with IADLs constitutes a medical expense, as discussed below. We believe this obviates the commenters' concerns without the need for changing definitions in this regard. We have, however, made one change to our list of IADLs based on our further administrative review. In the proposed rule, we proposed to exclude as an IADL, and as a medical expense under proposed paragraph (e)(5), fees paid to a VA-appointed fiduciary. *See* 80 FR 3850. Upon further review, we have determined that no statute precludes the use of such fees as an IADL. Therefore, we removed the last sentence of proposed § 3.278(b)(3), ''Managing finances does not include services rendered by a VA-appointed fiduciary.'' In addition, we removed proposed paragraph (e)(5), which provided that fees for VA-appointed fiduciary services are not medical expenses. We also amended the introductory paragraph of § 3.278(e) to refer to paragraphs (e)(1) through (4) instead of (e)(1) through (5).

We received a number of comments regarding our definition of ''custodial care'' and we have made changes. The commenters believed that the proposed rule unfairly excluded, as a medical expense, payments for the care of individuals with dementia. Many of these commenters said that such individuals would no longer qualify, because they may not require assistance with two ADLs. Other comments stated that physical disorders should be included. We agree. Final § 3.278(b)(4)(ii) includes physical, developmental, and cognitive disorders along with mental disorders.

Further, we received several comments from individuals who were concerned that the language used in proposed § 3.278(b)(4)(ii) (requiring ''regular . . . [s]upervision because an individual . . . is unsafe if left alone'') was too limiting. These commenters seemed to read the proposed rule to say that the disabled individual could never be left alone under any circumstances. To avoid such misunderstandings, final § 3.278(b)(4)(ii) now includes supervision ''to protect the individual from hazards or dangers incident to his or her daily environment,'' the same phrase used in 38 CFR 3.352(a).

On that point, several commenters appeared to confuse the purpose of proposed § 3.278 with the purpose of 38 CFR 3.351 and 3.352(a). One commenter stated that proposed § 3.278 conflicts with and ''amends'' § 3.352. To be clear, §§ 3.351 and 3.352(a) provide the criteria for determining whether an individual is housebound, or requires aid and attendance, as well as the compensation or pension rate to apply; those regulations apply to both needs-based and non-needs-based benefits, and do not address income calculations or deductions. The purpose of § 3.278 is quite different because it describes medical expenses that can be deducted from income for pension, parents' DIC, and section 306 pension. (These are the only VA needs-based benefits for which deductible medical expenses may be used to reduce income.) Because the purpose of § 3.278 differs from that of §§ 3.351 and 3.352(a), it is not essential for § 3.278 to precisely mirror §§ 3.351 and 3.352(a). Nevertheless, there is some value in consistent terminology across part 3, and the changes in this final rule to proposed § 3.278(b)(4)(ii) provide that.

One commenter believed that needing regular assistance with only one ADL could constitute custodial care. We make no change based on this comment. We continue to believe that two ADLs is appropriate, particularly given the fact that we have expanded the definition of ADLs to include an additional ADL and have added additional types of disorders to the definition of custodial care. The final definition of custodial care, § 3.272(b)(4), is regular (i) assistance

with two or more ADLs, or (ii) supervision because an individual with a physical, mental, developmental, or cognitive disorder requires care or assistance on a regular basis to protect the individual from hazards or dangers incident to his or her daily environment. Combined with the further changes discussed below, if an individual is shown to require regular assistance to be protected from hazards or dangers incident to his or her daily environment due to a physical, mental, developmental, or cognitive disorder, then assistance with ADLs or IADLs from an in-home care attendant or within a care facility is a medical expense.

Multiple commenters discussed the wide variation among States with respect to ''assisted living facility,'' ''independent living facility,'' and other facility types, both in terms of the type of care provided and licensure requirements. We agree with the commenters who emphasized that the medical expense deduction should be contingent on the sort of care the disabled individual is receiving in the facility and the necessity for the individual to be there—not the name of the facility. For this reason, we have revised the term and definition used for these facilities. The term proposed at § 3.278(b)(8), ''Assisted living, adult day care, or similar facility,'' is now ''[c]are facility other than a nursing home'' and defined in final § 3.278(b)(7) to mean ''a facility in which a disabled individual receives health care or custodial care under the provisions of paragraph (d) of this section.'' Such a facility must be licensed if facilities of that type are required to be licensed in the State or country in which the facility is located. The regulation also provides that a facility that is residential must be staffed 24 hours per day with care providers and that the providers do not have to be licensed health care providers.

Our proposed definition at § 3.278(b)(8) required residential facilities to be staffed 24 hours per day with ''custodial care providers.'' Several commenters urged us to clarify whether such providers were required to be licensed health care providers. The final rule, in § 3.278(b)(7), does not use the term ''custodial care provider'' and, as noted above, clarifies that these providers do not have to be licensed health care providers.

We made two additional changes to the definitions section; these are discussed in the information pertaining to institutional forms of care.

3. Institutional Forms of Care and Fast Letter 12–23

As mentioned above, in October 2012, VA issued Fast Letter 12–23 to its field stations in order to clarify and address inconsistencies that had arisen in VA's procedures manual, particularly with respect to when room and board in a facility could be considered a deductible medical expense. Numerous commenters wrote that Fast Letter 12–23 was more liberal in many respects than the proposed rule and urged us to incorporate these aspects of the fast letter in this final rule. We agree and have significantly revised § 3.278(d)(3) in the following ways:

The title of the paragraph is now ''Care facilities other than nursing homes'' instead of ''Assisted living, adult day care, and similar facilities,'' consistent with final § 3.278(b)(7). By not mentioning any particular facility type in the title, we hope to avoid the impression that we are not allowing payments made to certain facilities based on the name of the facility. As mentioned above, we are focusing on the care that the individual receives within the facility and the need for the individual to be in the facility rather than the facility name.

Final paragraph (d)(3) provides clearly that care ''in a facility'' may be provided by the facility, contracted by the facility, obtained from a third-party provider, or provided by family or friends. Many commenters urged us to make this clarification. This provision is consistent with Fast Letter 12–23, although the fast letter did not address family or friends. Fast Letter 12–23 spoke only to contracts that a claimant made with third-party providers. However, we heard from a number of commenters telling us that their loved one needed to live in a facility to receive care provided by a third party or by family or friends and we agree that this is reasonable.

One commenter expressed extreme dismay that we would permit third-party contractors to provide the care, believing this would lead to ''warehousing'' veterans in non-government facilities. We disagree. We believe that it is appropriate to allow veterans and their survivors to receive care in a facility or from a provider of their choice. We make no changes based on the comment.

The ''general rule,'' now found at paragraph (d)(3)(ii), simply provides that payments for health care provided by a health care provider are medical expenses. We stress that this rule applies to all individuals in a care facility, including those who do not need A&A, are not housebound, do not require custodial care, and do not need to be in a protected environment. We moved assistance with ADLs to final § 3.278(d)(3)(iii), which now incorporates IADLs and is discussed below. We note that this general rule is, in fact, no different from § 3.278(c)(1), which simply states that payments to a health care provider for services performed within the scope of the provider's professional capacity are medical expenses.

Final paragraph (d)(3)(iii) incorporates the intent of Fast Letter 12–23 by stating that the provider does not need to be a health care provider, and that payments for assistance with ADLs and IADLs are medical expenses, if the disabled individual is receiving health care or custodial care in the facility and either: (A) Needs A&A or is housebound; or (B) a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that, due to a physical, mental, developmental, or cognitive disorder, the individual has a need to be in a protected environment. This is a liberalization from proposed paragraph (d)(3), which would have required a veteran or a surviving spouse (or parent for parents' DIC purposes) to be in need of A&A or to be housebound in order for VA to consider certain medical expenses as deductible; the physician's or physician assistant's statement option was only for dependents and other relatives. Fast Letter 12–23, however, permits the ''physician's statement'' option for veterans and surviving spouses as well. We determined that the ''physician's statement'' option should be permitted for veterans and surviving spouses because not doing so could mean that veterans and surviving spouses might be subject to a higher level of disability requirement than their dependents and relatives for their ADL and IADL assistance payments to be authorized as medical expenses. Also regarding the ''physician's statement'' option, which previously only included physicians and physician assistants, this final rule expands this option to include certified nurse practitioners and clinical nurse specialists as well. We recognize that a claimant's primary medical provider may not be a physician or physician assistant.

On this issue, one commenter stated that the rule should be modified to eliminate the need for a statement from a physician or physician assistant that ''due to physical or mental disability, the qualified relative requires the health care services or custodial care that the in-home attendant provides.'' The commenter opined this is burdensome

and potentially demeaning to a person with disabilities. However, as another commenter pointed out, there are two groups of individuals who avail themselves of the services provided by independent living (or similar) facilities: Those who are there for convenience and those who are there for necessity. We agree with this latter comment; VA must have a way to distinguish between these groups. We do not believe the requirement for a statement is overly burdensome, particularly inasmuch as we have expanded qualified signers of such statements to physicians, physician assistants, certified nurse practitioners, and clinical nurse specialists. The requirement is in no way intended to be demeaning.

We have amended proposed paragraph (d)(3)(i)(B) to now provide, in final paragraph (d)(3)(iv), that payments for meals and lodging, as well as payments for other facility expenses not directly related to health or custodial care, are medical expenses when either of the following are true: (A) The facility provides or contracts for health care or custodial care for the disabled individual; or (B) a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that the individual must reside in the facility (or a similar facility) to separately contract with a third-party provider to receive health care or custodial care or to receive (paid or unpaid) health care or custodial care from family or friends. This change is consistent with Fast Letter 12–23; however, as noted above, we are including family and friends.

Final paragraphs (d)(3)(iii) and (iv) also differ from proposed paragraph (d)(3)(i)(B) by eliminating the proposed ''primary reason'' requirement. The proposed rule stated that medical expenses included all payments to the facility when the ''primary reason'' for the individual to be in the facility was to receive health care or custodial care. We agree with the many commenters who said the proposed provision was too restrictive. We believe these liberalizing changes satisfy the commenters' concerns.

Consistent with our revisions to paragraph (d)(3) described above as well as to our revisions to paragraph (d)(2) described below, we have made two additional changes to the definitions section. First, we have removed proposed § 3.278(b)(5), the definition for ''qualified relative,'' and renumbered § 3.278(b) accordingly. Under this final rule, it is no longer necessary to define a qualified relative. We previously proposed, at 80 FR 3850, to define a qualified relative because we were distinguishing between (A) veterans, surviving spouses, and parents' DIC claimants, versus (B) other individuals, when it came to the ''physician's statement'' option. We no longer need the definition because under this final rule, as noted above, we have liberalized the requirements to allow any disabled individual to utilize the type of physician's statement that had been proposed solely for qualified relatives. We emphasize that the deletion of the definition of ''qualified relative'' in no way limits the scope of the individuals whose medical expenses VA may deduct.

Second, we added a definition of ''needs A&A or is housebound'' as final § 3.278(b)(8), to simplify the rest of the regulation and to account for another type of individual whom VA may determine to need aid and attendance. As briefly mentioned above, in the section titled ''Terminology Clarifications Regarding VA Pension and Other VA Needs-Based Benefits,'' VA pays a higher disability compensation (*i.e.,* service-connected) rate to veterans when the veteran's spouse needs aid and attendance. Usually, disability compensation is a greater benefit than pension but sometimes it is not. VA generally pays the greater benefit automatically, but veterans always have the option of choosing whether they wish to receive pension or compensation. It may be the case that a veteran who is entitled to compensation may have a spouse who needs aid and attendance and that veteran may have chosen to receive pension instead of compensation. (Veterans must have service-connected conditions rated at least 30 percent disabling to receive additional compensation for dependents. *See* 38 U.S.C. 1115.) These spouses were not included in the proposed rule but they are included in VA's procedures manual and should be here, as well. Therefore, our definition of ''needs A&A or is housebound'' refers to a disabled individual who meets the criteria in § 3.351 for needing regular aid and attendance (A&A) or being housebound and is a veteran; surviving spouse; parent (for parents' DIC purposes); or spouse of a living veteran with a service-connected disability rated at least 30 percent disabling, who is receiving pension.

Consistent with these changes, this final rule does not include proposed § 3.278(e)(3), which previously stated that VA does not consider payments for meals and lodging to facilities that do not provide health care services or custodial care to be medical expenses. Instead, final § 3.278(d)(3)(iv)(B) allows for those payments to be medical expenses if specified individuals attest that the individual must reside in the facility to separately contract with a third-party provider to receive health care or custodial care or to receive such care from family and friends.

4. In-Home Care

Numerous commenters expressed their opinion that our proposal, at § 3.278(d)(2), to limit the deductible hourly rate for in-home attendants was a bad idea for many reasons: (1) It is patently unfair to set a national average as a limit, so there must be a geographical component; (2) using an average does not take into consideration overtime or holiday time; (3) there was no cap proposed on facility costs; (4) the proposed limit was far too low and based on an outdated source (the MetLife Mature Market Institute no longer produces its Market Survey of Long-Term Care Costs); and (5) the authorizing statute (38 U.S.C. 1503(a)(8)) does not permit VA to set a limit on the medical expense amount.

While we disagree with this comment regarding our authority, we agree with many of the other commenters, and the final rule does not include a limit to the hourly rate of in-home care. We have also removed the last sentence of proposed § 3.278(d)(2), which referred to the website where VA would publish the hourly rate limit. Several commenters suggested alternative in-home care limits such as the Genworth Cost of Care Survey or using 150 percent of the limit we proposed. We make no changes based on these suggestions because we have removed the in-home care hourly rate limit at this time, and we will consider whether we should revisit the issue in a future rulemaking.

One commenter urged us to ''consider adding language to the final rule that would ensure greater protection for veterans to ensure they are not open to potential liability through the employment of a registry model of home care.'' They urged us to require that all home care providers employ their home care workforce and thus train, bond, and withhold taxes for their employees. They went on to point out that some home care providers are simply staffing agencies that link a senior or disabled individual with an independent contractor who comes into the home without the training or insurance needed to provide real protections for the claimant. They believe VA should require the home care provider to employ their workforce rather than using independent contractors in an effort to eliminate the burden of potential liability. We decline to

implement such a requirement at this time. We do not believe that this type of provision would be a logical outgrowth of our proposed rule.

The final rule, regarding in-home attendants, is much simpler than the proposed rule, consistent with the changes we made to the care facility provisions, and for many of the same reasons:

(1) The final rule at § 3.278(d)(2) provides that payments for assistance with ADLs and IADLs by an in-home attendant are medical expenses, as long as the attendant provides the disabled individual with health care or custodial care. The proposed rule would not have considered payments for IADLs to be a medical expense for a veteran or surviving spouse (or parent for parents' DIC) unless the claimant needed A&A or was housebound and providing health care or custodial care was the ''primary responsibility'' of the attendant.

(2) The final rule at § 3.278(d)(2)(i) and (ii) provides that the attendant must be a health care provider, unless the disabled individual needs A&A or is housebound, or a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that due to a physical, mental, developmental, or cognitive disorder, the individual requires the health care or custodial care that the in-home attendant provides. The proposed rule did not permit a ''doctor's statement'' option for veterans, surviving spouses, or parents' DIC claimants.

5. Other Deductible Medical Expense Matters

Numerous commenters urged us to provide a ''grandfathering provision'' for our proposed changes to institutional care and in-home care provisions. Although we do not believe that the final rule necessitates such a provision, we are providing one because we have no desire or intent to harm or displace any person. We do not want to take a chance that previous guidance might have been interpreted more liberally than this final rule, in any individual case. Some commenters, who were residing in independent living facilities, expressed hesitation to submit a medical expense deduction claim for eyeglasses, for example, for fear that VA would re-consider and disallow their existing care facility expenses. We want to allay any concern or fear in this regard. Therefore, the final rule provides, in an introductory paragraph of final § 3.278(d), that paragraph (d), which pertains to institutional forms of care and in-home care, applies with respect to unreimbursed medical expense claims for institutional forms of care or in-home care received on or after October 18, 2018 that VA has not previously granted. Previous medical expense grants pertaining to institutional or in-home care made before that date would continue unless the claimant moves to a different facility or employs a different in-home attendant or in-home care agency.

In paragraph (c) of proposed § 3.278, we provided that ''[g]enerally, medical expenses for VA needs-based benefit purposes are payments for items or services that are medically necessary or that improve a disabled individual's functioning.'' One commenter pointed out that such a provision effectively restricts payments for medical expenses when no improvement is anticipated, such as hospice care. To clarify this provision, final § 3.278(c) provides that medical expenses for VA needs-based benefit purposes are payments for items or services ''that are medically necessary; that improve a disabled individual's functioning; or that prevent, slow, or ease an individual's functional decline.''

The same commenter noted that we had not included payments for Medicare Part A in § 3.278(c)(5). Most individuals in the U.S. qualify for free Part A benefits; however, a small number purchase this benefit. Although § 3.278(c)(5) would not have prohibited deducting Part A payments as a medical expense, we agree that for the sake of clarity and completeness Part A payments should be included, and we have added it in the final rule.

One commenter requested that we include, as a medical expense, any expense made necessary due to a claimant's medical condition or disability, such as a heated blanket to regulate body temperature for a veteran with quadriplegia; cranberry juice to prevent urinary tract infections for a veteran with a spinal cord injury; or home modifications to allow disabled individuals to live safely in the community. We make no changes based on this comment. Although we are sympathetic and understand the impetus behind this suggestion, it is longstanding VA policy not to consider such expenses to be deductible medical expenses. VA's procedures manual provides, ''Mechanical and electronic devices that compensate for disabilities are deductible medical expenses to the extent that they represent expenses that would not normally be incurred by nondisabled persons. Do not allow a medical expense deduction for equipment that would normally be used by a nondisabled person, such as an air conditioner or automatic transmission.'' M21–1MR, V.iii.1.G.43.k (May 20, 2011). We believe this policy is consistent with common understanding of medical expenses and have decided to continue that policy.

One commenter found it unjust that proposed paragraph (c)(4) does not take into consideration higher mileage rates in certain geographical areas when calculating mileage for medical purposes. As previously stated in this document, statutory MAPRs are also not adjusted by locality. For its mileage rates, VA uses the privately owned vehicle mileage reimbursement rates provided by the U.S. General Services Administration, which we believe is a reasonable and fair standard. We make no changes based on the comment.

G. Discussion of Public Comments Regarding Income and/or Income and Asset Exclusions

We now address comments we received regarding exclusions from income or income and assets (or ''corpus of the estate'' for parents as dependents and section 306 pension). In 38 CFR part 3, there are currently three regulations that address exclusions from income, §§ 3.261, 3.262, and 3.272, and this rulemaking adds a fourth, § 3.279. There are also currently three regulations that address exclusions from assets, §§ 3.261, 3.263, and 3.275, and this rulemaking adds a fourth, § 3.279. The reason for so many regulations is that sometimes a statutory exclusion is written in such a way that the exclusion applies to all VA needs-based benefits; however, sometimes a statutory exclusion is written in such a way that the exclusion applies only to some VA needs-based benefits. Sections 3.261 and 3.262 apply only to: (1) Parents as dependents for compensation purposes; (2) parents' DIC; and (3) section 306 pension and old-law pension, which are VA's previous and largely obsolete pension programs. Section 3.263, also largely obsolete, applies only to parents as dependents for compensation purposes and to section 306 pension. Sections 3.272 and 3.275 apply only to current-law pension. Section 3.279 will apply to all VA needs-based benefits (parents as dependents, parents' DIC, section 306 pension, old-law pension, and pension under the current law). This part of the preamble applies to all comments we received on exclusions regardless of where the exclusion is listed.

1. Changes to Exclusions

One commenter noted that our proposed rules did not contain a general statutory exclusion, *i.e.,* a ''catch all'' to state that regardless of whether or not an exclusion is listed in the applicable

regulation, VA will exclude any type of payment that is excluded by statute. We agree that such a general exclusion is necessary and the final rule amends §§ 3.261, 3.262, 3.263, 3.272, and 3.275 to provide one, and we have added one to final § 3.279.

Two commenters noted that we failed to list in § 3.279 that Federal income tax refunds are excluded income. They are also excluded from resources (*i.e.,* assets) for one year after receipt. We have made this addition to final §§ 3.261, 3.262, and 3.272, and final § 3.279 lists this exclusion at paragraph (e)(1). We have also renumbered proposed § 3.279(e)(1) through (8) as final § 3.279(e)(2) through (9), respectively.

This final rule does not include proposed § 3.272(k), under which only the interest component of annuity payments would have counted as income in certain situations. *See* 80 FR 3857. One commenter stated that 38 U.S.C. 1503 does not permit VA to count a partial payment. The same commenter stated that, as written, the proposed addition would be very difficult to implement because often it is impossible to calculate the amount of interest in an annuity payment due to varying types of annuities. Other commenters argued there is no way to determine the interest component of an annuity. Additional commenters questioned why income from an annuity purchase worthy of a penalty would only count in part. Although some commenters liked the exclusion, commenters also noted confusion and conflict between this exclusion and the proposed net worth and asset transfer provisions.

On further review, proposed § 3.272(k) was in conflict with several VA precedential General Counsel opinions, which provide that distributions from individual retirement accounts (IRAs) and annuities are income for purposes of VA's needs-based benefits. *See* VAOPGCPREC 2–2010, VAOPGCPREC 1–97, VAOPGCPREC 1–93, and VAOPGCPREC 23–90. As noted in those opinions, 38 U.S.C. 1503(a) provides that ''all payments of any kind or from any source (including . . . retirement or annuity payments . . .),'' shall be considered income unless expressly excluded by statute. In consideration of the comments received and the rationale contained in the Office of the General Counsel opinions, this final rule does not include proposed § 3.272(k). Final § 3.272(k) was previously proposed as § 3.272(r). Final § 3.272(r) consists of the income tax return exclusion discussed above.

Final § 3.279 includes some corrections and a clarification, in addition to the ''catch all'' statutory exclusion of paragraph (a), and the income tax return exclusion of paragraph (e)(1). We have changed the title of paragraph (a) from ''Scope of section'' to ''Statutory exclusions not countable'' because we believe the new title is more descriptive. Final paragraphs (c)(1), (2), and (3) use the term ''assets'' in the first column rather than the term ''net worth'' as proposed. Using the previous term was an oversight. The actual statutory language at 25 U.S.C. 1407 and 1408 is ''income or resources''; however, VA terminology for resources is now assets.

Several commenters noted that our proposed rule did not include a statutory exclusion found at 38 U.S.C. 1503(a)(5). The statute excludes reimbursements for loss; Public Law 112–154 added it to 38 U.S.C. 1503 in August 2012. We thank the commenters for pointing this out and have added this exclusion as final § 3.272(s). We note that we informed our field stations of the exclusion soon after the law change.

2. Other Comments Pertaining to Exclusions

Several commenters referred to a statement we made in the preamble of the proposed rule that VA counts distributions from IRAs as income. *See* 80 FR 3854. These commenters opined that counting the distributions from IRAs as income penalizes those who have saved money in an IRA more than those who have, for example, saved their money in a bank account or certificate of deposit. Although we understand this concern, our rulemaking may not contradict the precedential General Counsel opinions mentioned above, which came to their conclusion after a thorough analysis of the legislative history of the pension program. One commenter specifically argued that the principal of an IRA should not count as an asset. However, 38 CFR 3.263(b) defines net worth as all real and personal property owned by the claimant, except the claimant's dwelling (single family unit), including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life, which would include funds in an IRA. Once the principal in an IRA is accessible without penalty, it would count as an asset that would be reduced with any distributions, and any distributions from that account would count as income. Therefore, we make no changes based on such comments.

One commenter noted that our proposed rule did not amend § 3.272(e) to incorporate the decision of the United States Court of Appeals for Veterans Claims (Veterans Court) in *Osborn* v. *Nicholson,* 21 Vet. App. 223 (2007), which held that interest received from the redemption of a Series EE U.S. Savings Bond is excludable from income in determining annual income for improved pension (*i.e.,* current-law pension) purposes. VA is bound by *Osborn and has* issued a precedential General Counsel opinion, VAOPGCPREC 2–2010, addressing the Veterans Court's holding. But we decline to explicitly incorporate that holding into § 3.272(e) at this time, because (1) that paragraph's current language and *Osborn* are not in conflict, and (2) such an amendment in the final rule would deprive interested parties the opportunity to meaningfully comment.

One commenter took issue with the income exclusions located at proposed § 3.279(c)(1), (2), (3), and (6). These exclude from income payments to American Indians of up to $2,000 per year received from Tribal Judgment Fund distributions, interests in trust or restricted lands, or per capita distributions, as well as cash payments to Alaska Natives of up to $2,000 per year received from the Alaska Native Claims Settlement Act. The commenter disagreed with the $2,000 cap on such payments. We make no change based on this comment because the $2,000 cap is statutory. *See* 25 U.S.C. 1407, 1408; 43 U.S.C. 1626(c).

One commenter stated that there should not be a cap on the exclusion at proposed § 3.272(r), which incorporates a statutory income exclusion found at 38 U.S.C. 1503(a)(11). The exclusion, now incorporated in this final rule at § 3.272(k), provides that VA will exclude up to $5,000 per year that a State or municipality pays to a veteran as a veterans' benefit due to injury or disease. Because the statute specifically provides for the $5,000 cap, no change is warranted based on the comment.

One commenter opined that our proposed exclusion at § 3.279(b)(1) is erroneous because it ''is inconsistent with 25 U.S.C. 1408'' and because ''relocation payments under 25 U.S.C. 1408 are treated as assets.'' We make no change because the statute cited, section 1408, pertains to interests of American Indians in trusts or restricted lands and is listed in § 3.279(c)(2), where we note such payments are excluded from income (up to $2,000 per year) and assets.

However, the commenter goes on to quote from 42 U.S.C. 4636, which is the

basis of the relocation payment exclusion listed at § 3.279(b)(1). To the extent the commenter is suggesting that payments issued pursuant to section 4636 should be excluded from assets, we disagree. The statute's plain language, including its title, is clear that payments pursuant to section 4636 are excluded from income only. In addition, when Congress does not want a payment to be considered as either income or as an asset, Congress will instruct that the payment shall not be considered as either income or resources. An example of this is 42 U.S.C. 10602(c) (reclassified as 34 U.S.C. 20102(c)), which uses all three terms (income, resources, and assets). Because Congress did not exclude relocation payments from resources or assets, we make no changes based on this comment.

One commenter opined that payments received under the Workforce Investment Act of 1998 (29 U.S.C. chapter 30) should not be considered an asset. This payment type is listed as an income exclusion at proposed and final § 3.279(d)(1). Although the authority for this exclusion, 29 U.S.C. 2931(a)(2), has been moved to 29 U.S.C. 3241(a)(2), the statutory text still only excludes these payments from income, not assets. Therefore, the only change we make here is to update the statutory citation.

Similarly, the same commenter stated that payments to AmeriCorps participants, listed as an exclusion from income at § 3.279(d)(2), should not be considered an asset for the annualization period in which the payment is received. Since the statutory authority for this exclusion, 42 U.S.C. 12637(d), does not authorize the exclusion of these payments from assets, we make no changes based on this comment.

The same commenter expressed the opinion that, if a payment type is excluded from income, then it should be excluded as an asset during the annualization period in which it is received. We understand the commenter's point of view; however, absent statutory authority, there is no reason to suppose that excluding a payment from income necessarily equates to excluding that payment from assets during the annualization period in which the payment is received. Indeed, if that was Congress' intent, Congress would have made its intent known. In 26 U.S.C. 6409, for example, Congress plainly stated that the refund payment is not to be considered income and is not to be considered a resource for the annualization period of receipt. No such statement is present for the statutes pertaining to AmeriCorps or Workforce Investment payments. Without an instruction from Congress, we decline to subtract certain types of payments, once received, from assets. To the extent this commenter believes this practice constitutes double-counting, we disagree. Double counting would be including a payment as income and assets in the year of receipt; these payments are being excluded from income, but included as assets. The income exclusion still benefits the claimant inasmuch as it affects his or her pension rate. 38 U.S.C. 1521.

One commenter stated that, due to the fact that payments from the Retired Serviceman's Family Protection Plan are excluded from income, Survivor Benefit Plan payments should likewise be excluded from income. The Retired Serviceman's Family Protection Plan was the Department of Defense (DoD) survivor program that was in effect before September 21, 1972, which was replaced by the Survivor Benefit Plan. Payments under the Retired Serviceman's Family Protection Plan are specifically excluded under 10 U.S.C. 1441. There is no similar statutory exclusion for the Survivor Benefit Plan in 10 U.S.C. chapter 73 or in any other statute. *See* 10 U.S.C. 1450(h). Therefore, we make no change based on this comment.

The same commenter stated that life insurance payouts provided under the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) should be excluded. Under 38 U.S.C. 1503(a)(12), the lump-sum proceeds of any life insurance policy on a veteran are excluded—but only for survivors pension purposes. This exclusion is currently located at § 3.272(x) and, as proposed, will be relocated to § 3.272(q) by this final rule. Given the statute, we make no change based on this comment.

This commenter also stated that death transitional payments such as death gratuities or ''transitioning child allowances'' should be excluded. The death gratuity is a payment that DoD pays when a service member dies on active duty. Congress has provided for the exclusion of the death gratuity for parents' DIC purposes at 38 U.S.C. 1315(f)(1)(A). It was previously called the ''six months' death gratuity'' and is listed as an exclusion in § 3.261(a)(12). However, there is no statutory authority to exclude death gratuity payments from current-law survivors pension, so we make no change based on this comment. We note that it would be extremely rare for a survivor to receive a death gratuity payment and also receive VA survivors pension. When a service member dies on active duty, his or her survivor is generally entitled to receive DIC from VA, which is a greater benefit than survivors pension. As previously discussed, DIC for surviving spouses and children is not a needs-based benefit and is not part of this final rule.

Likewise, we believe the ''transitioning child allowance'' that the commenter mentions is the additional DIC amount paid to a surviving spouse under 38 U.S.C. 1311(f) when the surviving spouse has a child or children under the age of 18. A surviving spouse receiving DIC and the ''transitioning child allowance'' would not receive VA pension, see 38 U.S.C. 5304(a), and therefore there would be no need for the suggested exclusion for the ''transitioning child allowance.'' We make no changes based on this comment.

The same commenter noted that proposed § 3.279(e)(7) would exclude from income and assets the amount of student financial assistance received under Title IV of the Higher Education Act of 1965. The commenter stated that this exclusion should cover VA education benefits. We note that under 38 U.S.C. 1503(a)(9), educational and vocational rehabilitation expenses for books, fees, tuition, and materials are deductible from income for pension purposes, as are transportation fees in certain situations. Therefore, if a veteran uses his or her education benefit to pay for school and supplies (or allowable transportation fees), then the amounts paid would be deducted. Similarly, when a VA educational benefit is payable directly to the school, VA considers it received by the veteran and then paid to the school, so VA does not count it as income. However, if the educational benefit includes a stipend to pay for living expenses or dormitory fees, then such payments are countable income for pension. Thus, while there is no statute that excludes all VA education benefits, portions of educational expenses will not count as income. VA regulations note this exclusion at § 3.272(i).

The same commenter also noted that payments ''under the Atomic Commission appear to be missing from the list of exclusions.'' We believe the commenter is referring to payments under the Radiation Exposure Compensation Act of 1990, which are excluded from income for current-law pension, parents' DIC, and parents as dependents for compensation purposes. Such payments are not excluded from income for section 306 or old-law pension purposes; therefore, the exclusion is not listed in § 3.279. Rather, this exclusion is listed in the portions of §§ 3.261 and 3.262 that apply to

parents' DIC and parents as dependents, and it is listed in §§ 3.272 and 3.275 for current-law pension. Therefore, no change is necessary based on this comment.

The same commenter questioned our proposal to remove the statutory exclusion of payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card, saying our explanation was confusing. These programs no longer exist. *See* 42 U.S.C. 1395w–141(a)(2)(C). Therefore, we decline to incorporate them into proposed § 3.279. While there are undoubtedly payments listed in § 3.279 that individuals no longer receive, the drug card program was not actually a ''payment'' in the common use of the word, and the statute specifically provides that the program has ended. We do not believe we are disadvantaging any VA claimant by not listing this exclusion in 38 CFR part 3. The statute for the new program, the Medicare coverage gap discount program, does not address the program's effect on other Federal programs. *See* 42 U.S.C. 1395w–114a. The program impacts the price of prescription drugs; it is not a payment that individuals receive. The only impact the program could have on those receiving VA needs-based benefits is to possibly decrease an individual's unreimbursed medical expenses. In any case, as noted, the statutory authority for the Medicare coverage gap discount program does not include any exclusionary language, as did the previous program. Therefore, we have not included information about the new program in final § 3.279, and we make no changes based on the comment.

One commenter expressed the belief that child support payments should not be countable income for VA pension purposes. We decline to make any change based on this comment. Section 1503 of 38 U.S.C. provides that all payments of any kind or from any source count unless excluded, and there is no statute that excludes these payments.

3. Distribution and Derivation Tables for Exclusions

As an aid to readers of this supplementary information, we are providing the following distribution and derivation tables. Table 2 is a derivation table for the ''chart'' portion of new § 3.279. It lists the provisions in previous § 3.272 that were the basis for new § 3.279. Provisions that are new to part 3 are listed as new. The derivation table providing this information in the proposed rule had one error that has been corrected here.

Tables 3 and 4 are distribution and derivation tables for previous and revised § 3.272. We note here that ''previous § 3.272'' is current until the effective date of this final rule.

TABLE 2—SECTION 3.279 DERIVATION FROM PREVIOUS § 3.272

New § 3.279	Derived from previous § 3.272 (or ''New'')
3.279(b)(1)	New.
3.279(b)(2)	3.272(v).
3.279(b)(3)	3.272(p).
3.279(b)(4)	New.
3.279(b)(5)	3.272(o).
3.279(b)(6)	3.272(u).
3.279(b)(7)	New.
3.279(c)(1)	New.
3.279(c)(2)	3.272(r).
3.279(c)(3) through (c)(5)	New.
3.279(c)(6)	3.272(t)
3.279(c)(7) through (d)(2)	New.
3.279(d)(3)	3.272(k).
3.279(e)(1) through (e)(9)	New.

TABLE 3—PREVIOUS § 3.272 DISTRIBUTION

Previous § 3.272	Distributed to or no change in location
3.272(a) through (j)	No change.
3.272(k)	3.279(d)(3).
3.272(l) through (n)	No change.
3.272(o)	3.279(b)(5).
3.272(p)	3.279(b)(3).
3.272(q)	3.272(o).
3.272(r)	3.279(c)(2).
3.272(s)	3.272(p).
3.272(t)	3.279(c)(6).
3.272(u)	3.279(b)(6).
3.272(v)	3.279(b)(2).
3.272(w)	Removed.
3.272(x)	3.272(q).

TABLE 4—SECTION 3.272 DERIVATION

Revised § 3.272	Derived from, no change, or ''new''
3.272(a) through (f)	No change.
3.272(g), last sentence	New.
3.272(h) through (j)	No change.
3.272(k)	New.
3.272(l) through (n)	No change.
3.272(o)	Previous 3.272(q).
3.272(p)	Previous 3.272(s).
3.272(q)	Previous 3.272(x).
3.272(r)	New.
3.272(s)	New.
3.272(t)	New.

H. Discussion of Public Comments Regarding Other Matters

1. Other Regulatory Changes

One commenter stated that the supplementary information in our proposal pertaining to Medicaid-covered nursing home care for veterans, surviving spouses, and surviving children was so ''vague and convoluted as to be unintelligible.'' *See* 80 FR 3855. Although we make no changes based on the comment, we are providing additional information here for clarity. This final rule, consistent with the proposed rule, amends 38 CFR 3.551(i) and 3.503 to implement statutory changes to 38 U.S.C. 5503(d). This statute, which provides for a reduced pension rate where a pension recipient is receiving Medicaid-covered nursing home care, previously applied only to veterans and surviving spouses with no dependents, but was amended in 2010 to apply also to surviving children. 38 U.S.C. 5503(d)(5)(B). This statutory change will now be reflected in § 3.551(i). The proposed and final rule also amends the effective-date provision of § 3.503 to state that VA does not create overpayments in such cases unless there is the willful concealing of information, consistent with 38 U.S.C. 5503(d)(4). Finally, because of the multiple changes to the expiration date of section 5503(d), as proposed, final 38 CFR 3.551(i) references the statute rather than stating the specific date. We proposed to do this to avoid multiple future changes in the regulation.

One commenter took issue with our proposal to amend 38 CFR 3.277(c)(2) to replace the word ''shall'' with the permissive word ''may'' with respect to annual Eligibility Verification Reports (EVRs). *See* 80 FR 3849. The commenter believed this change would allow VA to ''target'' certain individuals, leading to a ''Big Brother'' mentality. We make no changes based on this comment because the change simply reflects the statutory terminology of 38 U.S.C. 1506. VA does not currently require annual EVRs from any pension recipient; Congress has given VA discretionary authority to require or not to require them.

One commenter expressed concern regarding that discretion, stating that an adjudicator may withhold payment if there is an appearance of fraud. Although there remains some discretion when it comes to individual adjudicators discerning fraud, we believe this rulemaking generally provides clearer guidance for pension entitlement decisions than existed previously, which will promote consistent benefit decisions, streamline processes, and constitute an important

improvement over past practices. We make no change based on the comment.

2. Costs, Savings, and Time

One commenter suggested this final rule will increase annual reporting forms and reviewing documents from the past, which would lead to higher administrative costs. As stated, VA has no plans to require annual EVRs or increase the number of documents to be submitted and reviewed; thus, VA makes no changes based on this comment.

One commenter stated that VA has wasted significant amounts of time on requests for information on income matches, and elderly claimants must spend money on accountants to review records for years in which EVRs were filed. As stated, VA is not requiring annual EVRs, so we anticipate no reporting burden on all pension recipients. VA conducts income matches with the IRS and the Social Security Administration before awarding pension benefits, which reduces VA reliance on self-reported and unverified information from claimants. VA is moving toward a more streamlined claims process, which will benefit pension claimants and VA alike.

One commenter questioned if VA has considered the costs associated with this rulemaking, as well as the other requirements discussed by Executive Orders 12866 and 13563. As we stated in the proposed rule, VA's impact analysis, which includes the costs associated with this rulemaking, is published on *https://www.va.gov/ORPM/RINs_2900_AO.asp* (RIN2900–AO73). Our discussion of Executive Orders 12866 and 13563 is below.

A few commenters mentioned a November 2013 Congressional Budget Office (CBO) cost estimate for a Senate bill introduced in the 113th Congress, S. 944, which, among other things, would have enacted a 3-year look-back period for VA pension. Commenters noted that the CBO estimate showed a cost and questioned why our impact analysis for the proposed rule showed a savings. Although we are not obligated to compare the two estimates, we first note that the CBO cost estimate was based on its assumption that VA would have to hire 70 additional claims processors. VA does not believe that additional claims processors will be required; in fact, we believe that somewhat fewer claims processors will be needed, given the bright-line net worth limit implemented here that was not present in S. 944. Those personnel will be re-directed to other mission-critical activities. Second, to the extent the CBO and our impact analysis have different estimates regarding the savings to be gained through a look-back period, we reiterate here that the impetus for the look back is preserving the integrity of the pension program—consistent with Congress' directive that pension be reserved for those with financial need—not a specific desire to ''save money'' in the pension program.

One commenter noted that GAO reported that VA's asset transfer provisions would cost taxpayers more money and increase the need for additional claims processors. We make no change based on the comment; we found no evidence of GAO making such a statement and, as stated above, we do not believe more claims processors will be required under this final rule.

One commenter suggested that VA should commission an independent study to weigh administrative expense against savings. VA has completed a cost benefit analysis that analyzed the costs and savings of this rule, is not required to complete an independent study, and declines to do so.

One commenter requested that VA consult with additional professionals before implementing this rule, specifically the National Governors Association (NGA), with regard to the effect of this rule on State Medicaid budgets. We thank the commenter for the suggestion and appreciate the input; however, VA declines to consult with the NGA at this time. VA has considered the recommendations of GAO with regard to ensuring the integrity of the pension program, has heard from a variety of interested parties through the notice and comment process coincident with this rulemaking and believes that no further consultation is necessary for implementation. Another commenter recommended that we consult with additional professionals, because this rule would cause significant internal cost to VA, to include adding claims processors. We make no change based on the comment. Again, we disagree that more claims processors will be necessary, we have completed a cost benefit analysis, and we do not believe further consultation is necessary for implementation.

Several commenters stated that VA is cutting benefits to save money, instead of helping claimants receive pension benefits. However, VA is not cutting benefits; as stated, we believe that more claimants will qualify for pension under this final rule. One commenter stated that, instead of taking away veterans' benefits, legislators should assess financial penalties for those who defer military service, which the commenter argued should cover the cost of VA and our veterans' needs as well as pay the national war debt. As stated, VA is not taking away any veterans' benefits. We make no changes based on these comments.

Several commenters expressed concern that this rulemaking would discourage claimants from applying for VA pension benefits, that the rulemaking would result in unnecessary delays, and that more appeals would result. VA disagrees with these comments. VA is streamlining its claims process to increase efficiency and decrease claims processing times. VA believes that this rule provides clearer pension entitlement criteria that will encourage claimants to apply for pension and decrease appeals. Therefore, VA does not make any changes to this rulemaking based on these comments.

Several commenters referred to a purported VA estimate of an extra 30 minutes per applicant to process claims. These commenters stated that it will take more time to review 36 months of financial documents. VA does not anticipate adding an additional 30 minutes to the processing time for each application and will generally not request 36 months of financial documents. We believe the processing time for pension claims will decrease with a bright-line net worth limit and other aspects of this final rule. The Paperwork Reduction Act section of the proposed rule did state that the ''[e]stimated respondent burden'' for VA Form 21P–8416 would be 30 minutes per form (consistent with past versions of VA Form 21P–8416), but it never stated that this rulemaking would require VA claims processors to spend 30 additional minutes on each claim. We make no change based on these comments.

3. Applicability, Effective Date, and Related Matters

A commenter asked how VA would treat applicants who have a claim pending on the effective date of this final rule. As explained above in the information pertaining to asset transfers, VA will not review asset transfers that occurred before the effective date of this final rule. Moreover, as explained above in the information pertaining to medical expense definitions, the new provisions pertaining to institutional forms of care or in-home care will only apply to claimants who move to a different institution or change in-home providers. In addition, if a claimant is receiving pension on the effective date of this final rule, although his or her net worth exceeds the net worth limit under final § 3.274(a), the claimant will continue to receive pension, unless he or she loses

pension for another reason. If a claimant has a pension application pending on the effective date of this final rule, VA will advise claims processors not to deny pension if the claimant's net worth is below the net worth limit under final § 3.274(a). However, an administrative determination will still be required under the previous provisions when a claimant's net worth exceeds the net worth limit. The income and asset exclusions, in final § 3.279, that we are incorporating in regulations have been statutory law for some time, and we have applied them since enacted; explicitly noting them in regulation now provides the public with one location for all the exclusions. Similarly, the Medicaid nursing home provisions in final §§ 3.551(i) and 3.503 chronicle in regulations provisions that VA has been applying since October 13, 2010, in accordance with section 606 of the Veterans Benefits Act of 2010, Public Law 111–275.

One commenter suggested that veterans of World War II or the Korean Conflict, as well as their surviving spouses, should be grandfathered in as a class of potential claimants, and all pension recipients should be exempt. We make no change based on this comment. It is unclear why those two groups in particular—or even all current recipients—should be exempt from the new rules, especially when the new rules will benefit many elderly claimants. Another commenter expressed concern that this rulemaking would permit VA to audit every claim and deny those already receiving benefits. This is not the case; VA has no intention of systematically denying benefits to claimants who are currently receiving pension benefits. Therefore, we make no change based on such comments.

Numerous commenters asked VA to extend the comment period. Consistent with existing Executive Orders, VA provided a comment period of 60 days. *See* E.O. 12866 section 6(a), 58 FR 51735, 51735 (1993) (''[E]ach agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days.''); E.O. 13563 section 2(b), 76 FR 3821, 3821–22 (2011) (''To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.''). VA received over 850 comments. The comments were from current and prospective VA pension claimants, individuals from the estate and financial planning industry, and others. Given the number of comments received from such a wide range of individuals, VA found that extending the comment period would not likely result in any additional information VA has not already considered in issuing this final rule. Therefore, VA declined to extend the comment period.

Several commenters stated that these rules should not be effective until one year or longer after date of publication. These commenters, however, failed to identify a compelling reason for such an extension, and we do not believe that the final rules are so onerous as to require such a delayed effective date.

4. Notice and Outreach

One commenter stated that the proposed rule contained an incorrect telephone number. The phone numbers listed in the proposed rule are the correct numbers to VA's Office of Regulation Policy and Management and Pension and Fiduciary Service. Therefore, no change to this rulemaking is warranted based on this comment.

One commenter noted that this rulemaking does not appear on the Office of Management and Budget's (OMB's) website and asked why VA has not submitted this rulemaking for review as required by Executive Orders 12866 and 13563. VA did submit this rulemaking for OMB review, and this rulemaking appears on OMB's *www.reginfo.gov* site.

One commenter stated that VA failed to provide notice of the proposed rule on social media. Another commenter believed that VA should mail out notice of the proposed rule to all veterans. One commenter requested a Senate hearing on this rulemaking. In issuing this rulemaking, VA complied with the procedural requirements of the Administrative Procedure Act. 5 U.S.C. 551–559. Section 553(b) requires that a proposed rule be published in the **Federal Register**. As previously stated, on January 23, 2015, VA published the proposed rule in the **Federal Register**. The Administrative Procedure Act does not require any agency to provide notice of a proposed rule on social media or to mail a copy of the proposed rule to the public. The Administrative Procedure Act also does not require a Senate hearing. Therefore, no change to this rulemaking is warranted based on these comments.

One commenter suggested further outreach and collaboration, and another commenter wondered how VA would make the public aware of the new eligibility requirements. Again, VA published the proposed rule in the **Federal Register** and gave a 60-day comment period. *See* 80 FR 3840. VA received over 850 comments from a wide range of individuals. VA will update its website and issue press releases to ensure the public is aware of this final rule. Therefore, no change to this rulemaking is warranted based on this comment.

Several commenters mentioned that VA should focus on outreach programs to make veterans more aware of VA pension instead of focusing on ''taking it away.'' As noted above, VA disagrees that this rule focuses on taking away veteran's benefits. Moreover, VA publishes benefit information at *http://www.benefits.va.gov,* which provides information regarding all VA benefits available to veterans, their dependents, and survivors. Information specific to VA pension is currently found at *http://www.benefits.va.gov/pension.* VA is constantly attempting to provide outreach to veterans, consistent with the statutory authority for outreach found at 38 U.S.C. chapter 63. Inasmuch as this final rule does not pertain to chapter 63, we make no changes to the rule based on the comments pertaining to this matter.

Several commenters seemed to believe that VA is amending its pension program through an Executive Order. VA is amending its regulations through the rulemaking process that is governed by the Administrative Procedure Act. *See* 5 U.S.C. 551–559. In the preamble to the proposed rule and in this document, VA addressed Executive Orders 12866 and 13563, but these orders are not the authority for issuing regulations. Therefore, no change to this rulemaking is warranted based on these comments.

One commenter wanted to know what is being done to make sure claims are granted properly now and in the future. VA is continuously working with regional office personnel to make sure claims are processed properly. We make no change based on this comment.

5. Accreditation, Financial Advisors, and Related Matters

A few commenters seemed to think that this rulemaking would eliminate the involvement of attorneys and financial advisors from assisting VA claimants in applying for VA benefits. A few commenters stated that VA should regulate how financial advisors and organizations are allowed to assist veterans with their claims for VA benefits. While these comments pertain more to VA's accreditation program than its pension program, it is important to note that VA does regulate those who assist on veterans' claims through its rules pertaining to accreditation. 38 CFR

14.626–14.636. In order to assist ''in the preparation, presentation, and prosecution of claims for VA benefits,'' an individual must be accredited by VA. 38 CFR 14.629(b)(1). VA does not accredit individuals for the purpose of promoting their separate business interests, such as marketing financial products. Accreditation is granted solely for the purpose of assisting VA claimants with their claims for VA benefits. *See* 38 CFR 14.626. Those who are accredited are held to standards of conduct prohibiting fraud, deception, and other unlawful or unethical conduct. 38 CFR 14.632. While VA cannot predict the effect of this final rule on the number of financial advisors assisting with claims, there is no reason to believe that it will impact the number of VA accredited representatives available to assist with claims. No change to this rulemaking is warranted based on these comments.

Several commenters suggested that VA should focus on ensuring that VA accredited representatives are competent and preventing unaccredited individuals from assisting VA claimants and charging for their services. One commenter noted that States have the authority to investigate those individuals who sell unsuitable financial products to consumers. Others expressed similar sentiment that VA should focus on pension poaching organizations, rather than ''penalizing'' claimants. VA takes the accreditation of representatives very seriously and, as noted above, has implemented regulatory provisions governing the accreditation program (outside of this rulemaking). *See* 38 CFR 14.626–14.636; *see, e.g.,* 73 FR 29852 (2008). VA does not recognize an unaccredited individual as a claimant's representative. If VA determines that an unaccredited individual is assisting claimants with applications for VA benefits, VA notifies such individual to cease the unlawful practice. If VA determines that an accredited individual is improperly charging a fee or violating its standards of conduct, VA may suspend or cancel the individual's accreditation. *See* 38 CFR 14.633.

If individuals fail to cease an unlawful practice, VA will report to Federal, State, or local agencies or offices that enforce unauthorized practice, unfair business practice, or consumer or senior fraud laws. Over the past year, VA has enhanced its coordination with the U.S. Department of Justice, the Federal Trade Commission, and State Attorney General offices to combat ''pension poaching'' and other scams targeting veterans and their family members. VA coordination with enforcement agencies is the best response to unauthorized or unlawful practices in this realm. This rulemaking does not in any way detract from these efforts; therefore, VA is not making any changes to this rulemaking based on these comments.

Several commenters stated that this rulemaking would make applying for pension benefits more difficult. The commenters believed the more difficult application process would drive claimants to seek out advice from consultants and estate planning attorneys, which would increase abuse. To prevent such abuse, one commenter recommended allowing VA accredited agents and attorneys to charge fees for assisting with a claimant's initial application. VA disagrees that this rulemaking makes applying for pension benefits more difficult. With this rulemaking, VA is providing additional guidance on the qualifying criteria and allowable medical expenses beyond what is currently available. Claimants have the option to seek assistance from VA accredited representatives, and we see no reason why VA claimants will have a more difficult time finding representation. Moreover, VA is bound by the statutory prohibition of representatives charging fees at the time of initial application. 38 U.S.C. 5904(c). Therefore, VA does not make any changes to this rulemaking based on these comments.

6. Outside the Scope

Several commenters made statements regarding their own claim for benefits. These comments are outside the scope of this rulemaking, and, therefore, VA makes no changes based on these comments. One commenter spoke in support of equitable relief for claimants who encounter unique situations, citing an example of a claimant who inherited money from a child and lost pension entitlement even though the claimant used the money to pay the child's burial expenses and distributed the remainder to siblings. While we do note that equitable relief is available for certain cases under 38 U.S.C. 503, this comment is outside the scope of this rulemaking; therefore, VA makes no change to the final rule based on it.

One commenter asked that VA consider providing in its pension award letters a break-down of VA pension benefits between the portion considered to be basic pension and the portion considered to be the additional A&A allowance for purposes of reporting income to State and local agencies. This comment is outside the scope of this rulemaking, which does not pertain to decision award letters; therefore, VA makes no change to the final rule based on it.

I. Technical Corrections

We are making a technical correction to § 3.262(t) to include the authority citation, which was inadvertently omitted from the proposed rule.

We are making a technical correction to § 3.270. The proposed revisions to § 3.270 were stated incorrectly in the proposed rule. *See* 80 FR 3857. Section 3.270 is a regulation that tells readers which sections apply to current-law pension and which sections apply to VA's other needs-based benefits. The error pertained to a distinction between the word ''to'' and the word ''through.'' For example, the previous heading for paragraph (a) was ''Sections 3.250 to 3.270.'' This meant § 3.250 and up to (but not including) § 3.270 apply to VA's older programs. We erroneously proposed to amend the paragraph title as ''Sections 3.250 through 3.270 and sections 3.278 through 3.279.'' This was an error because § 3.270 describes the applicability but does not itself apply to any benefit. Similarly, the previous heading for paragraph (b) was ''Sections 3.271 to 3.300.'' We erroneously proposed to amend the heading to ''Sections 3.271 through 3.300.'' Section 3.300, ''Claims based on the effects of tobacco products,'' does not pertain to any needs-based benefit. This final rule clarifies that §§ 3.250 through 3.263 and §§ 3.278 through 3.279 apply to benefit programs that were in effect before January 1, 1979, and §§ 3.271 through 3.279 apply to current-law pension.

We are making a technical correction to §§ 3.274(a) and 3.278(c)(4) to insert the VA website address where VA will publish the net worth limit and the privately owned vehicle mileage reimbursement rate. The proposed rule simply used a placeholder for a to-be-determined VA website address. Moreover, we inadvertently omitted headers in proposed §§ 3.274(b)(1), 3.275(b)(1) and (b)(2); this final rule corrects those omissions.

We are making a technical correction to proposed § 3.274(e), which as proposed included a heading at § 3.274(e)(3). On review, the information contained in proposed § 3.274(e)(3) was more appropriate as a note to paragraph (e), and we have re-designated it accordingly. Therefore, final § 3.274(e) does not include the introductory language, ''[e]xcept as provided in paragraph (e)(3) of this section,'' because final § 3.274 does not contain a paragraph (e)(3). Moreover, final § 3.274(f)(3) and (4) have been slightly altered, in a non-substantive way, for readability.

Final § 3.275(b)(1)(ii)(B) and (C) are slightly different than proposed in order to conform to final § 3.278. Final § 3.275(b)(1)(ii)(B) refers to ''[a] care facility other than a nursing home'' instead of ''[a]n assisted living or similar residential facility that provides custodial care,'' to accord with the new title of § 3.278(d)(3). Final § 3.275(b)(1)(ii)(C) refers to ''[t]he home of a family member for health care or custodial care'' instead of ''[t]he home of a family member for custodial care'' to accord with the new language of § 3.278(d)(2).

Proposed § 3.276(b) mistakenly referenced § 3.277(b) as VA's authority to obtain additional documentation necessary to determine the annual income and the value of the corpus of the estate. That authority is actually in § 3.277(a), and final § 3.276(b) corrects this mistake. We also updated the examples in paragraphs (a)(3) and (4) of proposed (now final) § 3.276.

We are making a technical correction to § 3.278(b)(1) by changing the proposed conjunction between (i) and (ii). We are spelling out the acronym ''aka'' used in proposed § 3.279(a), and making a technical correction to § 3.279(e)(9) to correctly refer to subchapter I instead of subchapter 1 as the authority for excluding as income annuities received under the Retired Serviceman's Family Protection Plan.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. *See also* 5 CFR 1320.8(b)(3)(vi).

In the proposed rule, we stated that proposed 38 CFR 3.276 and 3.278 constitutes a collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). We also noted in the proposed rule that VA submitted a copy of the proposed rule to OMB for its review of the collection of information, and requested public comments on the collection of information provisions contained in 38 CFR 3.276 and 38 CFR 3.278.

VA received a comment stating that neither the pension application nor development forms request information regarding living expenses. A claimant's completion of VA Form 21–8049, Request for Details of Expenses (OMB Control number 2900–0161), has been an administrative requirement for claims processors to make net worth determinations. VA agrees with the comment that some of the information requested on this form will no longer be necessary for net worth determinations. Therefore, VA determined the information collection from VA Form 21P–8049, Request for Details of Expenses (OMB control number 2900–0107), is no longer necessary and VA will discontinue use of the form. The discontinuance of this form will be pursued through a separate administrative action. Considering the last PRA approval usage and the discontinuation of the form, there will be an estimated decrease in burden hours by 5,700 and an annual incremental information burden cost savings of $136,002.00.

Under 38 CFR 3.276, the collections of information are currently approved by OMB under the assigned OMB control numbers 2900–0001, 2900–0002 and 2900–0004. Specifically, under 38 CFR 3.276, claimants would be required to report to VA whether they have transferred assets within the 3 years prior to claiming pension or anytime thereafter and if so, information about those assets.

Prior to the creation of the Fully Developed Claims (FDC) program, all initial applications for Veterans Compensation and/or Pension claims had to be filed using VA Form 21–526 (OMB Control Number 2900–0001). In the administration of the FDC program, VA created two new, streamlined forms: VA Form 21–526EZ for Veterans Compensation claims (now under OMB Control Number 2900–0747) and VA Form 21P–527EZ for Veterans Pension claims (now under OMB Control Number 2900–0002). The creation and use of those two forms has resulted in the obsolescence of VA Form 21–526. Therefore, VA is pursuing discontinuance of VA Form 21–526.

For VA Form 21P–527EZ (OMB control number 2900–0002), VA estimates 839 new claimants/respondents in 2018, which represents the Veteran portion of the total caseload impacted by provisions under 38 CFR 3.276. The estimated completion time remains 30 minutes. VA therefore estimates the total incremental information collection burden costs to claimants/respondents to be $14,409.28 (592 burden hour × $24.34 per hour).

For VA Form 21P–534EZ (OMB control number 2900–0004), VA estimates 1,617 new claimants/respondents in 2018, which represents the survivor portion of the total caseload impacted by the provisions under 38 CFR 3.276. The completion time for VA Form 21P–534EZ remains 30 minutes. VA therefore estimates the total incremental information collection burden costs to claimants/respondents to be $16,648.56 (684 burden hour × $24.34 per hour).

Under 38 CFR 3.278, the collections of information are currently approved by OMB under the assigned OMB control numbers 2900–0161. Specifically, under proposed 38 CFR 3.278, claimants would be required to submit information pertaining to their medical expenses. Certain claimants would also be required to submit evidence that they need custodial care or assistance with activities of daily living.

We are adding a parenthetical statement after the authority citations in the amendatory language of this final rule to all of the sections containing information collections, so that the control numbers are displayed for each information collection.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the final regulatory flexibility analysis requirements of section 604.

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.

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 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 the Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may 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's revised 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.

This rule is considered an Executive Order 13771 deregulatory action. The estimated cost savings of the rule, expressed in 2016 dollars and discounted back to the 2016 equivalent, is $0.0937 million.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this final rule are 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

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 4, 2018, for publication.

Dated: September 9, 2018.

Michael P. Shores,

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

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

For the reasons set forth in the preamble, VA amends 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend the table in § 3.261(a) as follows:

■ a. Remove entries (35) through (37) and (39) through (42).

■ b. Redesignate entry (38) as entry (35).

■ c. Revise newly redesignated entry (35).

■ d. Add entries (36) and (37).

The revision and additions read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *

(a) * * *

Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension: old-law (veterans, surviving spouses and children)	Pension: section 306 (veterans, surviving spouses and children)	See—
* * * * * * *					
(35) Income received under Section 6 of the Radiation Exposure Compensation Act (Pub. L. 101–426).	Excluded	Excluded	Included	Included	§ 3.262(t)
(36) Income received from income tax returns	Excluded	Excluded	Excluded	Excluded	§ 3.262(u)
(37) Other amounts excluded from income by statute	Excluded	Excluded	Excluded	Excluded	§ 3.262(v) § 3.279

* * * * *

■ 3. Amend § 3.262 as follows:

■ a. Add a sentence to the end of paragraph (l) introductory text.

■ b. Remove paragraphs (s), (u), (v), (x), (y), (z), and (aa).

■ c. Redesignate paragraphs (t) and (w) as paragraphs (s) and (t), respectively.

■ d. Revise newly redesignated paragraph (t).

■ e. Add new paragraphs (u) and (v).

The additions and revision read as follows:

§ 3.262 Evaluation of income.

* * * * *

(l) * * * For the definition of what constitutes a medical expense, see § 3.278, Deductible medical expenses.

* * * * *

(t) *Radiation Exposure Compensation Act.* For the purposes of parents' dependency and indemnity compensation and dependency of

parents under § 3.250, there shall be excluded from income computation payments under Section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 note)

(u) *Income tax returns.* VA will exclude from income payments from income tax returns. See § 3.279(e)(1).

(Authority: 26 U.S.C. 6409)

(v) *Statutory exclusions.* Other amounts excluded from income by statute. See § 3.279. VA will exclude from income any amount designated by statute as not countable as income, regardless of whether or not it is listed in this section or in § 3.279.

■ 4. Amend § 3.263 as follows:
■ a. Remove paragraphs (e), (f), (g), (h), and (i).
■ b. Add new paragraph (e).
The addition reads as follows:

§ 3.263 Corpus of estate; net worth.

* * * * *

(e) VA will exclude from the corpus of estate or net worth any amount designated by statute as not countable as a resource. See § 3.279.

* * * * *

§ 3.270 [Amended]

■ 5. Amend § 3.270 as follows:
■ a. In the heading to paragraph (a) by removing ''3.250 to 3.270'' and adding in its place ''3.250 through 3.263 and 3.278 through 3.279.''
■ b. In the note to paragraph (a) by removing ''§§ 3.250 to 3.270'' and adding in its place ''§§ 3.250 through 3.263 and 3.278 through 3.279''.
■ c. In the heading to paragraph (b) by removing ''3.271 to 3.300'' and adding in its place ''3.271 through 3.279.''

■ 6. Amend § 3.271 by adding paragraph (i) to read as follows:

§ 3.271 Computation of income.

* * * * *

(i) *Waiver of receipt of income.* Potential income that is not excludable under § 3.272 or § 3.279 but is waived by an individual is included as countable income of the individual. However, if an individual withdraws a claim for Social Security benefits, after a finding of entitlement to those benefits, in order to maintain eligibility for unreduced Social Security benefits upon reaching a particular age, VA will not regard this potential income as having been waived and will therefore not count it.

(Authority: 38 U.S.C. 1503(a))

■ 7. Amend § 3.272 as follows:
■ a. Add a sentence to the end of paragraph (g) introductory text.
■ b. Remove paragraphs (k), (o), (p), (r), (t), (u), (v), and (w).
■ c. Add new paragraph (k).
■ d. Redesignate paragraphs (q), (s), and (x) as paragraphs (o), (p), and (q), respectively.
■ e. Revise the authority citation in newly redesignated paragraph (q).
■ f. Add new paragraphs (r), (s), and (t).
The additions and revision read as follows:

§ 3.272 Exclusions from income.

* * * * *

(g) * * * For the definition of what constitutes a medical expense, see § 3.278, Deductible medical expenses.

* * * * *

(k) *Veterans' benefits from States and municipalities.* VA will exclude from income payments from a State or municipality to a veteran of a monetary benefit that is paid as a veterans' benefit due to injury or disease. VA will exclude up to $5,000 of such benefit in any annualization period.

(Authority: 38 U.S.C. 1503(a)(11))

* * * * *

(q) * * *

(Authority: 38 U.S.C. 1503(a)(12))

(r) *Income tax returns.* VA will exclude from income payments from income tax returns. See § 3.279(e)(1).

(Authority: 26 U.S.C. 6409)

(s) *Reimbursements for loss.* VA will exclude from income payments described in 38 U.S.C. 1503(a)(5).

(Authority: 38 U.S.C. 1503(a)(5))

(t) *Statutory exclusions.* Other amounts excluded from income by statute. See § 3.279. VA will exclude from income any amount designated by statute as not countable as income, regardless of whether or not it is listed in this section or in § 3.279.

■ 8. Revise § 3.274 to read as follows:

§ 3.274 Net worth and VA pension.

(a) *Net worth limit.* For purposes of entitlement to VA pension, the net worth limit effective October 18, 2018 is $123,600. This limit will be increased by the same percentage as the Social Security increase whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of title II of the Social Security Act (42 U.S.C. 415(i)). VA will publish the current limit on its website at *www.benefits.va.gov/pension/.*

(b) *When a claimant's or beneficiary's net worth exceeds the limit.* Except as provided in paragraph (h)(2) of this section, VA will deny or discontinue pension if a claimant's or beneficiary's net worth exceeds the net worth limit in paragraph (a) of this section.

(1) *Net worth.* Net worth means the sum of a claimant's or beneficiary's assets and annual income.

(2) *Asset calculation.* VA will calculate a claimant's or beneficiary's assets under this section and § 3.275.

(3) *Annual income calculation.* VA will calculate a claimant's or beneficiary's annual income under § 3.271, and will include the annual income of dependents as required by law. *See* §§ 3.23(d)(4), 3.23(d)(5), and 3.24 for more information on annual income included when VA calculates a claimant's or beneficiary's pension entitlement rate. In calculating annual income for this purpose, VA will subtract all applicable deductible expenses, to include appropriate prospective medical expenses under § 3.272(g).

(4) *Example of net worth calculation.* For purposes of this example, presume the net worth limit is $123,600. A claimant's assets total $117,000 and annual income is $9,000. Therefore, adding the claimant's annual income to assets produces net worth of $126,000. This amount exceeds the net worth limit.

(c) *Assets of other individuals included as claimant's or beneficiary's assets*—(1) *Claimant or beneficiary is a veteran.* A veteran's assets include the assets of the veteran as well as the assets of his or her spouse, if the veteran has a spouse.

(2) *Claimant or beneficiary is a surviving spouse.* A surviving spouse's assets include only the assets of the surviving spouse.

(3) *Claimant or beneficiary is a surviving child.* (i) If a surviving child has no custodian or is in the custody of an institution, the child's assets include only the assets of the child.

(ii) If a surviving child has a custodian other than an institution, the child's assets include the assets of the child as well as the assets of the custodian. If the child is in the joint custody of his or her natural or adoptive parent and a stepparent, the child's assets also include the assets of the stepparent. *See* § 3.57(d) for more information on child custody for pension purposes.

(d) *How a child's net worth affects a veteran's or surviving spouse's pension entitlement.* VA will not consider a child to be a veteran's or surviving spouse's dependent child for pension purposes if the child's net worth exceeds the net worth limit in paragraph (a) of this section.

(1) *Dependent child and potential dependent child.* For the purposes of this section—

(i) ''Dependent child'' refers to a child for whom a veteran or a surviving spouse is entitled to an increased maximum annual pension rate.

(ii) ''Potential dependent child'' refers to a child who is excluded from a veteran's or surviving spouse's pension award solely or partly because of this paragraph (d). References in this section to ''dependent child'' include a potential dependent child.

(2) *Dependent child net worth.* A dependent child's net worth is the sum of his or her annual income and the value of his or her assets.

(3) *Dependent child asset calculation.* VA will calculate the value of a dependent child's assets under this section and § 3.275. A dependent child's assets include the child's assets only.

(4) *Dependent child annual income calculation.* VA will calculate a dependent child's annual income under § 3.271, and will include the annual income of the child as well as the annual income of the veteran or surviving spouse that would be included if VA were calculating a pension entitlement rate for the veteran or surviving spouse.

(e) *When VA calculates net worth.* VA calculates net worth only when:

(1) VA has received—

(i) An original pension claim;

(ii) A new pension claim after a period of non-entitlement;

(iii) A request to establish a new dependent; or

(iv) Information that a veteran's, surviving spouse's, or child's net worth has increased or decreased; and

(2) The claimant or beneficiary meets the other factors necessary for pension entitlement as provided in § 3.3(a)(3) and (b)(4).

Note to Paragraph (e). If the evidence shows that net worth exceeds the net worth limit, VA may decide the pension claim before determining if the claimant meets other entitlement factors. VA will notify the claimant of the entitlement factors that have not been established.

(f) *How net worth decreases.* Net worth may decrease in three ways: Assets can decrease, annual income can decrease, or both assets and annual income can decrease.

(1) *How assets decrease.* A veteran, surviving spouse, or child, or someone acting on their behalf, may decrease assets by spending them on any item or service for which fair market value is received unless the item or items purchased are themselves part of net worth. *See* § 3.276(a)(4) for the definition of ''fair market value.'' The expenses must be those of the veteran, surviving spouse, or child, or a relative of the veteran, surviving spouse, or child. The relative must be a member or constructive member of the veteran's, surviving spouse's, or child's household.

(2) *How annual income decreases. See* §§ 3.271 through 3.273.

(3) *Example 1.* For purposes of this example, presume the net worth limit is $123,600 and the maximum annual pension rate (MAPR) is $12,000. A claimant has assets of $115,000 and annual income of $9,000. Adding annual income to assets produces a net worth of $124,000, which exceeds the net worth limit. However, the claimant is a patient in a nursing home and pays annual unreimbursed nursing home fees of $29,000. Reasonably predictable unreimbursed medical expenses are deductible from annual income under § 3.272(g) to the extent that they exceed 5 percent of the applicable MAPR. VA subtracts the projected expenditures that exceed 5 percent of the applicable MAPR (here, $28,400) from annual income, which decreases annual income to zero. The claimant's net worth is now $115,000; therefore, net worth is within the limit to qualify for VA pension.

(4) *Example 2.* For purposes of this example, presume the net worth limit is $123,600 and the MAPR is $12,000. A claimant has assets of $123,000 and annual income of $9,500. Adding annual income to assets produces a net worth of $132,500, which exceeds the net worth limit. The claimant pays reasonably predictable annual unreimbursed medical expenses of $9,000. Unreimbursed medical expenses are deductible from annual income under § 3.272(g) to the extent that they exceed 5 percent of the applicable MAPR. VA subtracts the projected expenditures that exceed 5 percent of the applicable MAPR (here, $8,400) from annual income, which decreases annual income to $1,100. This decreases net worth to $124,100, which is still over the limit. VA must deny the claim for excessive net worth.

(g) *Effective dates of pension entitlement or increased entitlement after a denial, reduction, or discontinuance based on excessive net worth*—(1) *Scope of paragraph.* This paragraph (g) applies when VA has:

(i) Discontinued pension or denied pension entitlement for a veteran, surviving spouse, or surviving child based on the veteran's, surviving spouse's, or surviving child's excessive net worth; or

(ii) Reduced pension or denied increased pension entitlement for a veteran or surviving spouse based on a dependent child's excessive net worth.

(2) *Effective date of entitlement or increased entitlement.* The effective date of entitlement or increased entitlement is the day net worth ceases to exceed the limit. For this effective date to apply, the claimant or beneficiary must submit a certified statement that net worth has decreased and VA must receive the certified statement before the pension claim has become finally adjudicated under § 3.160. This means that VA must receive the certified statement within 1 year after its decision notice to the claimant concerning the denial, reduction, or discontinuance unless the claimant appeals VA's decision. Otherwise, the effective date is the date VA receives a new pension claim. In accordance with § 3.277(a), VA may require the claimant or beneficiary to submit additional evidence as the individual circumstances may require.

(h) *Reduction or discontinuance of beneficiary's pension entitlement based on excessive net worth*—(1) *Effective date of reduction or discontinuance.* When an increase in a beneficiary's or dependent child's net worth results in a pension reduction or discontinuance because net worth exceeds the limit, the effective date of reduction or discontinuance is the last day of the calendar year in which net worth exceeds the limit.

(2) *Net worth decreases before the effective date.* If net worth decreases to the limit or below the limit before the effective date provided in paragraph (h)(1) of this section, VA will not reduce or discontinue the pension award on the basis of excessive net worth.

(i) *Additional effective-date provisions for dependent children*—(1) *Establishing a dependent child on veteran's or surviving spouse's pension award results in increased pension entitlement.* When establishing a dependent child on a veteran's or surviving spouse's pension award results in increased pension entitlement for the veteran or surviving spouse, VA will apply the effective-date provisions in paragraphs (g) and (h) of this section.

(2) *Establishing a dependent child on veteran's or surviving spouse's pension award results in decreased pension entitlement.* (i) When a dependent child's non-excessive net worth results in decreased pension entitlement for the veteran or surviving spouse, the effective date of the decreased pension entitlement rate (*i.e.,* VA action to add the child to the award) is the end of the year that the child's net worth decreases.

(ii) When a dependent child's excessive net worth results in increased pension entitlement for the veteran or surviving spouse, the effective date of the increased pension entitlement rate (*i.e.,* VA action to remove the child from

the award) is the date that VA receives a claim for an increased rate based on the child's net worth increase.

(Authority: 38 U.S.C. 1522, 1543, 5110, 5112)

■ 9. Revise § 3.275 to read as follows:

§ 3.275 How VA determines the asset amount for pension net worth determinations.

(a) *Definitions pertaining to assets*—(1) *Assets.* The term *assets* means the fair market value of all property that an individual owns, including all real and personal property, unless excluded under paragraph (b) of this section, less the amount of mortgages or other encumbrances specific to the mortgaged or encumbered property. VA will consider the terms of the recorded deed or other evidence of title to be proof of ownership of a particular asset. *See also* § 3.276(a)(4), which defines ''fair market value.''

(2) *Claimant.* (i) Except as provided in paragraph (a)(2)(ii) of this section, for the purposes of this section and § 3.276, *claimant* means a pension beneficiary, a dependent spouse, or a dependent or potential dependent child as described in § 3.274(d), as well as a veteran, surviving spouse, or surviving child pension applicant.

(ii) For the purpose of paragraph (b)(1) of this section, *claimant* means a pension beneficiary or applicant who is a veteran, a surviving spouse, or a surviving child.

(3) *Residential lot area.* For purposes of this section, *residential lot area* means the lot on which a residence sits that does not exceed 2 acres (87,120 square feet), unless the additional acreage is not marketable.

(b) *Exclusions from assets.* Assets do not include the following:

(1) *Primary residence.* The value of a claimant's primary residence (single-family unit), including the residential lot area, in which the claimant has an ownership interest. VA recognizes one primary residence per claimant. If the residence is sold after pension entitlement is established, any net proceeds from the sale is an asset except to the extent the proceeds are used to purchase another residence within the same calendar year as the year in which the sale occurred.

(i) *Personal mortgage not deductible.* VA will not subtract from a claimant's assets the amount of any mortgages or encumbrances on a claimant's primary residence.

(ii) *Claimant not residing in primary residence.* Although rental income counts as annual income as provided in § 3.271(d), VA will not include a claimant's primary residence as an asset even if the claimant resides in any of the following as defined in § 3.278(b):

(A) A nursing home or medical foster home;

(B) A care facility other than a nursing home; or

(C) The home of a family member for health care or custodial care.

(2) *Personal effects.* Value of personal effects suitable to and consistent with a reasonable mode of life, such as appliances and family transportation vehicles.

(3) *Radiation Exposure Compensation Act payments.* Payments made under section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 (note))

(4) *Ricky Ray Hemophilia Relief Fund payments.* Payments made under section 103(c) and excluded under section 103(h)(2) of the Ricky Ray Hemophilia Relief Fund Act of 1998.

(Authority: 42 U.S.C. 300c–22 (note))

(5) *Energy Employees Occupational Illness Compensation Program payments.* Payments made under the Energy Employees Occupational Illness Compensation Program.

(Authority: 42 U.S.C. 7385e(2))

(6) *Payments to Aleuts.* Payments made to certain Aleuts under 50 U.S.C. App. 1989c–5.

(Authority: 50 U.S.C. App. 1989c–5(d)(2))

(7) *Statutory exclusions.* Other amounts excluded from assets by statute. See § 3.279. VA will exclude from assets any amount designated by statute as not countable as a resource, regardless of whether or not it is listed in this section or in § 3.279.

(Authority: 38 U.S.C. 1522, 1543)

■ 10. Revise § 3.276 to read as follows:

§ 3.276 Asset transfers and penalty periods.

(a) *Asset transfer definitions.* For purposes of this section—

(1) *Claimant* has the same meaning as defined in § 3.275(a)(2)(i).

(2) *Covered asset* means an asset that—

(i) Was part of a claimant's net worth;

(ii) Was transferred for less than fair market value; and

(iii) If not transferred, would have caused or partially caused the claimant's net worth to exceed the net worth limit under § 3.274(a).

(3) *Covered asset amount* means the monetary amount by which a claimant's net worth would have exceeded the limit due to the covered asset alone if the uncompensated value of the covered asset had been included in net worth.

(i) *Example 1.* For purposes of this example, presume the net worth limit under § 3.274(a) is $123,600. A claimant's assets total $115,900 and his annual income is zero. However, the claimant transferred $30,000 by giving it to a friend. If the claimant had not transferred the $30,000, his net worth would have been $145,900, which exceeds the net worth limit. The claimant's covered asset amount is $22,300, because this is the amount by which the claimant's net worth would have exceeded the limit due to the covered asset.

(ii) *Example 2.* For purposes of this example, presume the net worth limit under § 3.274(a) is $123,600. A claimant's annual income is zero and her total assets are $125,000, which exceeds the net worth limit. In addition, the claimant transferred $30,000 by giving $20,000 to her married son and giving $10,000 to a friend. The claimant's covered asset amount is $30,000 because this is the amount by which the claimant's net worth would have exceeded the limit due to the covered assets alone.

(4) *Fair market value* means the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. VA will use the best available information to determine fair market value, such as inspections, appraisals, public records, and the market value of similar property if applicable.

(5) *Transfer for less than fair market value* means—

(i) Selling, conveying, gifting, or exchanging an asset for an amount less than the fair market value of the asset; or

(ii) A voluntary asset transfer to, or purchase of, any financial instrument or investment that reduces net worth by transferring the asset to, or purchasing, the instrument or investment unless the claimant establishes that he or she has the ability to liquidate the entire balance of the asset for the claimant's own benefit. If the claimant establishes that the asset can be liquidated, the asset is included as net worth. Examples of such instruments or investments include—

(A) *Annuities. Annuity* means a financial instrument that provides income over a defined period of time for an initial payment of principal.

(B) *Trusts. Trust* means a legal instrument by which an individual (the grantor) transfers property to an individual or an entity (the trustee), who manages the property according to the terms of the trust, whether for the

grantor's own benefit or for the benefit of another individual.

(6) *Uncompensated value* means the difference between the fair market value of an asset and the amount of compensation an individual receives for it. In the case of a trust, annuity, or other financial instrument or investment described in paragraph (a)(5)(ii) of this section, *uncompensated value* means the amount of money or the monetary value of any other type of asset transferred to such a trust, annuity, or other financial instrument or investment.

(7) *Look-back period* means the 36-month period immediately preceding the date on which VA receives either an original pension claim or a new pension claim after a period of non-entitlement. This definition does not include any date before October 18, 2018.

(8) *Penalty period* means a period of non-entitlement, calculated under paragraph (e) of this section, due to transfer of a covered asset.

(b) *General statement of policy pertaining to pension and covered assets.* VA pension is a needs-based benefit and is not intended to preserve the estates of individuals who have the means to support themselves. Accordingly, a claimant may not create pension entitlement by transferring covered assets. VA will review the terms and conditions of asset transfers made during the 36-month look-back period to determine whether the transfer constituted transfer of a covered asset. However, VA will disregard asset transfers made before October 18, 2018. In accordance with § 3.277(a), for any asset transfer, VA may require a claimant to provide evidence such as a Federal income tax return transcript, the terms of a gift, trust, or annuity, or the terms of a recorded deed or other evidence of title.

(c) *Exception for transfers as a result of fraud or unfair business practice.* An asset transferred as the result of fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to VA pension will not be considered a covered asset. Evidence supporting this exception may include, but is not limited to, a complaint contemporaneously filed with State, local, or Federal authorities reporting the incident.

(d) *Exception for transfers to certain trusts.* VA will not consider as a covered asset an asset that a veteran, a veteran's spouse, or a veteran's surviving spouse transfers to a trust established on behalf of a child of the veteran if:

(1) VA rates or has rated the child incapable of self-support under § 3.356; and

(2) There is no circumstance under which distributions from the trust can be used to benefit the veteran, the veteran's spouse, or the veteran's surviving spouse.

(e) *Penalty periods and calculations.* When a claimant transfers a covered asset during the look-back period, VA will assess a penalty period not to exceed 5 years. VA will calculate the length of the penalty period by dividing the total covered asset amount by the monthly penalty rate described in paragraph (e)(1) of this section and rounding the quotient down to the nearest whole number. The result is the number of months for which VA will not pay pension.

(1) *Monthly penalty rate.* The monthly penalty rate is the maximum annual pension rate (MAPR) under 38 U.S.C. 1521(d)(2) for a veteran in need of aid and attendance with one dependent that is in effect as of the date of the pension claim, divided by 12, and rounded down to the nearest whole dollar. The monthly penalty rate is located on VA's website at *www.benefits.va.gov/pension.*

(2) *Beginning date of penalty period.* When a claimant transfers a covered asset or assets during the look-back period, the penalty period begins on the first day of the month that follows the date of the transfer. If there was more than one transfer, the penalty period will begin on the first day of the month that follows the date of the last transfer.

(3) *Entitlement upon ending of penalty period.* VA will consider that the claimant, if otherwise qualified, is entitled to benefits effective the last day of the last month of the penalty period, with a payment date as of the first day of the following month in accordance with § 3.31.

(4) *Example of penalty period calculation.* VA receives a pension claim in November 2018. The claimant's net worth is equal to the net worth limit. However, the claimant transferred covered assets totaling $10,000 on August 20, 2018, and September 23, 2018. Therefore, the total covered asset amount is $10,000, and the penalty period begins on October 1, 2018. Assume the MAPR for a veteran in need of aid and attendance with one dependent in effect in November 2018 is $24,000. The monthly penalty rate is $2,000. The penalty period is $10,000/$2,000 per month = 5 months. The fifth month of the penalty period is February 2019. The claimant may be entitled to pension effective February 28, 2019, with a payment date of March 1, 2019, if other entitlement requirements are met.

(5) *Penalty period recalculations.* VA will not recalculate a penalty period under this section unless—

(i) The original calculation is shown to be erroneous; or

(ii) VA receives evidence showing that some or all covered assets were returned to the claimant before the date of claim or within 60 days after the date of VA's notice to the claimant of VA's decision concerning the penalty period. If covered assets are returned to the claimant, VA will recalculate or eliminate the penalty period. For this exception to apply, VA must receive the evidence not later than 90 days after the date of VA's notice to the claimant of VA's decision concerning the penalty period. Once covered assets are returned, a claimant may reduce net worth at the time of transfer under the provisions of § 3.274(f).

(Authority: 38 U.S.C. 1522, 1543, 1506(1))

(The Office of Management and Budget has approved the information collection requirement in this section under control numbers 2900–0002, and 2900–0004.)

§ 3.277 [Amended]

■ 11. Amend § 3.277(c)(2) introductory text by removing ''shall'' and adding in its place ''may''.

■ 12. Add § 3.278 to read as follows:

§ 3.278 Deductible medical expenses.

(a) *Scope.* This section identifies medical expenses that VA may deduct from countable income for purposes of three of its needs-based programs: Pension, section 306 pension, and parents' dependency and indemnity compensation (DIC). Payments for such medical expenses must be unreimbursed to be deductible from income.

(b) *Definitions.* For the purposes of this section—

(1) *Health care provider* means:

(i) An individual licensed by a State or country to provide health care in the State or country in which the individual provides the health care. The term includes, but is not limited to, a physician, physician assistant, psychologist, chiropractor, registered nurse, licensed vocational nurse, licensed practical nurse, and physical or occupational therapist; or

(ii) A nursing assistant or home health aide who is supervised by a licensed health care provider as defined in paragraph (b)(1)(i) of this section.

(2) *Activities of daily living (ADLs)* mean basic self-care activities and consist of bathing or showering, dressing, eating, toileting, transferring,

and ambulating within the home or living area. *Transferring* means an individual's moving himself or herself from one position to another, such as getting in and out of bed.

(3) *Instrumental activities of daily living (IADLs)* mean independent living activities, such as shopping, food preparation, housekeeping, laundering, managing finances, handling medications, using the telephone, and transportation for non-medical purposes.

(4) *Custodial care* means regular:

(i) Assistance with two or more ADLs; or

(ii) Supervision because an individual with a physical, mental, developmental, or cognitive disorder requires care or assistance on a regular basis to protect the individual from hazards or dangers incident to his or her daily environment.

(5) *Nursing home* means a facility defined in § 3.1(z)(1) or (2). If the facility is not located in a State, the facility must be licensed in the country in which it is located.

(6) *Medical foster home* means a privately-owned residence, recognized and approved by VA under 38 CFR 17.73(d), that offers a non-institutional alternative to nursing home care for veterans who are unable to live alone safely due to chronic or terminal illness.

(7) *Care facility other than a nursing home* means a facility in which a disabled individual receives health care or custodial care under the provisions of paragraph (d) of this section. A facility must be licensed if facilities of that type are required to be licensed in the State or country in which the facility is located. A facility that is residential must be staffed 24 hours per day with care providers. The providers do not have to be licensed health care providers.

(8) *Needs A&A or is housebound* refers to a disabled individual who meets the criteria in § 3.351 for needing regular aid and attendance (A&A) or being housebound and is a:

(i) Veteran;

(ii) Surviving spouse;

(iii) Parent (for parents' DIC purposes); or

(iv) Spouse of a living veteran with a service-connected disability rated at least 30 percent disabling, who is receiving pension.

(c) *Medical expenses for VA purposes.* Generally, medical expenses for VA needs-based benefit purposes are payments for items or services that are medically necessary; that improve a disabled individual's functioning; or that prevent, slow, or ease an individual's functional decline. Medical expenses may include, but are not limited to, the payments specified in paragraphs (c)(1) through (7) of this section.

(1) *Care by a health care provider.* Payments to a health care provider for services performed within the scope of the provider's professional capacity are medical expenses. Cosmetic procedures that a health care provider performs to improve a congenital or accidental deformity or related to treatment for a diagnosed medical condition are medical expenses.

(2) *Medications, medical supplies, medical equipment, and medical food, vitamins, and supplements.* Payments for prescription and non-prescription medication procured lawfully under Federal law, as well as payments for medical supplies or medical equipment, are medical expenses. Medically necessary food, vitamins, and supplements as prescribed or directed by a health care provider authorized to write prescriptions are medical expenses.

(3) *Adaptive equipment.* Payments for adaptive devices or service animals, including veterinary care, used to assist a person with an ongoing disability are medical expenses. Medical expenses do not include non-prescription food, boarding, grooming, or other routine expenses of owning an animal.

(4) *Transportation expenses.* Payments for transportation for medical purposes, such as the cost of transportation to and from a health care provider's office by taxi, bus, or other form of public transportation are medical expenses. The cost of transportation for medical purposes by privately owned vehicle (POV), including mileage, parking, and tolls, is a medical expense. For transportation in a POV, VA limits the deductible mileage rate to the current POV mileage reimbursement rate specified by the United States General Services Administration (GSA). The current amount can be obtained from *www.gsa.gov* or on VA's website at *www.benefits.va.gov/pension/.* Amounts by which transportation expenses set forth in this paragraph (c)(4) exceed the amounts of other VA or non-VA reimbursements for the expense are medical expenses.

(i) *Example.* In February 2013, a veteran drives 60 miles round trip to a VA medical center and back. The veteran is reimbursed $24.90 from the Veterans Health Administration. The POV mileage reimbursement rate specified by GSA is $0.565 per mile, so the transportation expense is $0.565/mile * 60 miles = $33.90. For VA needs-based benefits purposes, the unreimbursed amount, here, the difference between $33.90 and $24.90, is a medical expense.

(ii) [Reserved]

(5) *Health insurance premiums.* Payments for health, medical, hospitalization, and long-term care insurance premiums are medical expenses. Premiums for Medicare Parts A, B, and D and for long-term care insurance are medical expenses.

(6) *Smoking cessation products.* Payments for items and services specifically related to smoking cessation are medical expenses.

(7) *Institutional forms of care and in-home care.* As provided in paragraph (d) of this section.

(d) *Institutional forms of care and in-home care.* This paragraph (d) applies with respect to claims for a medical expense deduction for institutional forms of care or in-home care received on or after October 18, 2018 that VA has not previously granted.

(1) *Hospitals, nursing homes, medical foster homes, and inpatient treatment centers.* Payments to hospitals, nursing homes, medical foster homes, and inpatient treatment centers (including inpatient treatment centers for drug or alcohol addiction), including the cost of meals and lodging charged by such facilities, are medical expenses.

(2) *In-home care.* Payments for assistance with ADLs and IADLs by an in-home attendant are medical expenses as long as the attendant provides the disabled individual with health care or custodial care. Payments must be commensurate with the number of hours that the provider attends to the disabled person. The attendant must be a health care provider unless—

(i) The disabled individual needs A&A or is housebound; or

(ii) A physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that, due to a physical, mental, developmental, or cognitive disorder, the individual requires the health care or custodial care that the in-home attendant provides.

(3) *Care facilities other than nursing homes.* (i) Care in a facility may be provided by the facility, contracted by the facility, obtained from a third-party provider, or provided by family or friends.

(ii) Payments for health care provided by a health care provider are medical expenses.

(iii) The provider does not need to be a health care provider, and payments for assistance with ADLs and IADLs are medical expenses, if the disabled individual is receiving health care or custodial care in the facility and—

(A) The disabled individual needs A&A or is housebound; or

(B) A physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that, due to a physical, mental, developmental, or cognitive disorder, the individual needs to be in a protected environment.

(iv) Payments for meals and lodging (and other facility expenses not directly related to health care or custodial care) are medical expenses if:

(A) The facility provides or contracts for health care or custodial care for the disabled individual; or

(B) A physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that the individual must reside in the facility (or a similar facility) to separately contract with a third-party provider to receive health care or custodial care or to receive (paid or unpaid) health care or custodial care from family or friends.

(e) *Non-medical expenses for VA purposes.* Payments for items and services listed in paragraphs (e)(1) through (4) of this section are not medical expenses for VA needs-based benefit purposes. The list is not all-inclusive.

(1) *Maintenance of general health.* Payments for items or services that benefit or maintain general health, such as vacations and dance classes, are not medical expenses.

(2) *Cosmetic procedures.* Except as provided in paragraph (c)(1) of this section, cosmetic procedures are not medical expenses.

(3) *Meals and lodging.* Except as provided in paragraph (d) of this section, payments for meals and lodging are not medical expenses.

(4) *Assistance with IADLs.* Except as provided in paragraph (d) of this section, payments for assistance with IADLs are not medical expenses.

CROSS REFERENCES: For the rules governing how medical expenses are deducted, see § 3.272(g) (regarding pension) and § 3.262(l) (regarding section 306 pension and parents' DIC).

(Authority: 38 U.S.C. 501(a), 1315(f)(3), 1503(a)(8), 1506(1))

(The Office of Management and Budget has approved the information collection requirement in this section under control numbers 2900–0002, 2900–0004, and 2900–0161.)

■ 13. Add § 3.279 to read as follows:

§ 3.279 Statutory exclusions from income or assets (net worth or corpus of the estate).

This section sets forth payments that Federal statutes exclude from income for the purpose of determining entitlement to any VA-administered benefit that is based on financial need. Some of the exclusions also apply to assets (pension), also known as net worth or the corpus of the estate (section 306 pension and parents as dependents for compensation). VA will exclude from income or assets any amount designated by statute as not countable as income or resources, regardless of whether or not it is listed in this section.

Program or payment	Income	Assets (corpus of the estate)	Authority
(a) COMPENSATION OR RESTITUTION PAYMENTS:			
(1) *Relocation payments.* Payments to individuals displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.	Excluded	Included	42 U.S.C. 4636.
(2) *Crime victim compensation.* Amounts received as compensation under the Victims of Crime Act of 1984 unless the total amount of assistance received from all federally funded programs is sufficient to fully compensate the claimant for losses suffered as a result of the crime.	Excluded	Excluded	42 U.S.C. 10602(c).
(3) *Restitution to individuals of Japanese ancestry.* Payments made as restitution under Public Law 100–383 to an individual of Japanese ancestry who was interned, evacuated, or relocated during the period of December 7, 1941, through June 30, 1946, pursuant to any law, Executive Order, Presidential proclamation, directive, or other official action respecting these individuals.	Excluded	Excluded	50 U.S.C. App. 1989b–4(f).
(4) *Victims of Nazi persecution.* Payments made to individuals because of their status as victims of Nazi persecution.	Excluded	Excluded	42 U.S.C. 1437a note.
(5) *Agent Orange settlement payments.* Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).	Excluded	Excluded	Sec. 1, Public Law 101–201.
(6) *Chapter 18 benefits.* Allowances paid under 38 U.S.C. chapter 18 to a veteran's child with a birth defect.	Excluded	Excluded	38 U.S.C. 1833(c).
(7) *Flood mitigation activities.* Assistance provided under the National Flood Insurance Act of 1968, as amended.	Excluded	Excluded	42 U.S.C. 4031.
(b) PAYMENTS TO NATIVE AMERICANS:			
(1) *Indian Tribal Judgment Fund distributions.* All Indian Tribal Judgment Fund distributions excluded from income and assets while such funds are held in trust. First $2,000 per year of income received by individual Indians under the Indian Tribal Judgment Funds Use or Distribution Act in satisfaction of a judgment of the United States Court of Federal Claims excluded from income.	Excluded	Excluded	25 U.S.C. 1407.
(2) *Interests of individual Indians in trust or restricted lands.* Interests of individual Indians in trust or restricted lands excluded from assets. First $2,000 per year of income received by individual Indians that is derived from interests in trust or restricted lands excluded from income.	Excluded	Excluded	25 U.S.C. 1408.
(3) *Per Capita Distributions Act.* First $2,000 per year of per capita distributions to members of a tribe from funds held in trust by the Secretary of the Interior for an Indian tribe. All funds excluded from income and assets while funds are held in trust.	Excluded	Excluded	25 U.S.C. 117b, 25 U.S.C. 1407.
(4) *Submarginal land.* Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes.	Excluded	Excluded	25 U.S.C. 459e.
(5) *Old Age Assistance Claims Settlement Act.* Up to $2,000 per year of per capita distributions under the Old Age Assistance Claims Settlement Act.	Excluded	Excluded	25 U.S.C. 2307.
(6) *Alaska Native Claims Settlement Act.* Any of the following, if received from a Native Corporation, under the Alaska Native Claims Settlement Act:	Excluded	Excluded	43 U.S.C. 1626(c).
(i) Cash, including cash dividends on stocks and bonds, up to a maximum of $2,000 per year;			
(ii) Stock, including stock issued as a dividend or distribution;			

Program or payment	Income	Assets (corpus of the estate)	Authority
(iii) Bonds that are subject to the protection under 43 U.S.C. 1606(h) until voluntarily and expressly sold or pledged by the shareholder after the date of distribution; (iv) A partnership interest; (v) Land or an interest in land, including land received as a dividend or distribution on stock; (vi) An interest in a settlement trust.			
(7) *Maine Indian Claims Settlement Act.* Payments received under the Maine Indian Claims Settlement Act of 1980.	Excluded	Excluded	25 U.S.C. 1728.
(8) *Cobell Settlement.* Payments received under *Cobell* v. *Salazar,* Civil Action No. 96–1285 (TFH) (D.D.C.).	Excluded for one year.	Excluded for one year.	Sec. 101, Public Law 111–291.
(c) WORK–RELATED PAYMENTS:			
(1) *Workforce investment.* Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.	Excluded	Included	29 U.S.C. 3241(a)(2).
(2) *AmeriCorps participants.* Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.	Excluded	Included	42 U.S.C. 12637(d).
(3) *Volunteer work.* Compensation or reimbursement to volunteers involved in programs administered by the Corporation for National and Community Service, unless the payments are equal to or greater than the minimum wage. The minimum wage is either that under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 *et seq.*) or that under the law of the State where the volunteers are serving, whichever is greater.	Excluded	Excluded	42 U.S.C. 5044(f).
(d) MISCELLANEOUS PAYMENTS:			
(1) *Income tax refunds.* Income tax refunds, including the Federal Earned Income Credit and advance payments with respect to a refundable credit.	Excluded	Excluded for one year.	26 U.S.C. 6409.
(2) *Food stamps.* Value of the allotment provided to an eligible household under the Food Stamp Program.	Excluded	Excluded	7 U.S.C. 2017(b).
(3) *Food for children.* Value of free or reduced-price for food under the Child Nutrition Act of 1966.	Excluded	Excluded	42 U.S.C. 1780(b).
(4) *Child care.* Value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990.	Excluded	Included	42 U.S.C. 9858q.
(5) *Services for housing recipients.* Value of services, but not wages, provided to a resident of an eligible housing project under a congregate services program under the Cranston-Gonzalez National Affordable Housing Act.	Excluded	Included	42 U.S.C. 8011(j)(2).
(6) *Home energy assistance.* The amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under the Low-Income Home Energy Assistance Act of 1981.	Excluded	Excluded	42 U.S.C. 8624(f).
(7) *Programs for older Americans.* Payments, other than wages or salaries, received from programs funded under the Older Americans Act of 1965, 42 U.S.C. 3001.	Excluded	Included	42 U.S.C. 3020a(b).
(8) *Student financial aid.* Amounts of student financial assistance received under Title IV of the Higher Education Act of 1965, including Federal work-study programs, Bureau of Indian Affairs student assistance programs, or vocational training under the Carl D. Perkins Vocational and Technical Education Act of 1998.	Excluded	Excluded	20 U.S.C. 1087uu, 2414(a).
(9) *Retired Serviceman's Family Protection Plan annuities.* Annuities received under subchapter I of the Retired Serviceman's Family Protection Plan.	Excluded	Included	10 U.S.C. 1441.

(Authority: 38 U.S.C. 501(a))

■ 14. Amend § 3.503 by adding paragraph (c) to read as follows:

§ 3.503 Children.

* * * * *

(c) *Medicaid-covered nursing home care (§ 3.551(i)).* (1) Last day of the calendar month in which Medicaid payments begin, last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b)(2), or the earliest date on which payment may be reduced without creating an overpayment, whichever date is later; or

(2) If the child or the child's custodian willfully conceals information necessary to make the reduction, the last day of the month in which that willful concealment occurred.

(Authority: 38 U.S.C. 501, 1832, 5112(b), 5503(d))

■ 15. Amend § 3.551 by revising paragraph (i) to read as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(i) *Certain beneficiaries receiving Medicaid-covered nursing home care.* This paragraph (i) applies to a veteran without a spouse or child, to a surviving spouse without a child, and to a surviving child. Effective November 5, 1990, and terminating on the date provided in 38 U.S.C. 5503(d)(7), if such a beneficiary is receiving Medicaid-covered nursing home care, no pension or survivors pension in excess of $90 per month will be paid to or for the beneficiary for any period after the month in which the Medicaid payments begin. A beneficiary is not liable for any pension paid in excess of the $90 per month by reason of the Secretary's inability or failure to reduce payments, unless that inability or failure is the result of willful concealment, by the beneficiary, of information necessary to make that reduction.

(Authority: 38 U.S.C. 5503)

* * * * *

§ 3.660 [Amended]

■ 16. Amend § 3.660(d) by removing ''§§ 3.263 or 3.274'' and adding in its place ''§ 3.263''.

[FR Doc. 2018–19895 Filed 9–17–18; 8:45 am]

BILLING CODE 8320–01–P

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Part III

The President

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9783 of September 13, 2018

National Hispanic Heritage Month, 2018

By the President of the United States of America

A Proclamation

During National Hispanic Heritage Month, we honor all American citizens of Hispanic descent and celebrate their rich and vibrant traditions of faith, family, hard work, and patriotism. We are grateful for the innumerable contributions they make to our society, which are vital to our thriving Nation. We are especially grateful for the 1.2 million Hispanic-American men and women who have answered the call to serve in our Armed Forces, demonstrating remarkable loyalty, bravery, and dedication to duty.

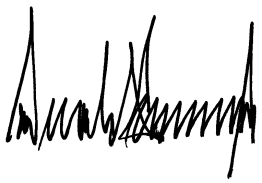
My Administration is continuing to create an environment in which all our citizens have the opportunity to achieve the American Dream. We have enacted massive tax cuts for families and businesses, which means more jobs and better pay. We are eliminating unnecessary and burdensome regulations that constrain our entrepreneurial spirit. We are finally fixing our Nation's broken trade deals so that we have free, fair, and reciprocal trade. As a result of our efforts, our Nation's unemployment rate has reached its lowest level in 50 years, and the Hispanic-American unemployment and poverty rates have dropped to their lowest rates on record.

Hispanic Americans help reinforce our relationship with our Latin American neighbors as we work to bolster liberty in the region and achieve free and fair trade with our regional partners. In April, Vice President Mike Pence joined leaders from the Pan-American region at the Summit of the Americas to affirm our collective commitment to liberty and government accountability and to confronting threats to freedom in places such as Cuba, Venezuela, and Nicaragua. We will continue to collaborate with Latin American and Caribbean countries to strengthen our trade relationships and to ensure a freer and more secure hemisphere.

For generations, Hispanic Americans have played a pivotal role in our country's strength and prosperity. Their spirit, energy, and leadership are woven into the culture of America, and enrich all our lives. To honor the achievements of Hispanic Americans, the Congress, by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15 through October 15, 2018, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all Americans to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



[FR Doc. 2018–20468
Filed 9–17–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9784 of September 13, 2018

National Farm Safety and Health Week, 2018

By the President of the United States of America

A Proclamation

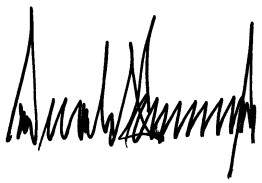
During National Farm Safety and Health Week, we recognize the vital contributions farmers, ranchers, and foresters make to our thriving economy. My Administration is committed to ensuring that these hardworking Americans, who provide our Nation and the world with food, fiber, fuel, and other essential goods, work in safe environments. As harvest time approaches, it is important to focus on the safety and health of our Nation's farmers and their families, especially those in rural areas, and raise awareness to some of the risks that accompany farming life.

The men and women of our great Nation who work the land are among our country's greatest treasures, and we recognize that their labor is physically demanding and potentially dangerous. According to the Bureau of Labor Statistics, 417 agricultural workers died from a work-related injury in 2016, with transportation incidents as the leading cause of death. As American agriculture continues to lead the world in both innovation and production, we must maintain efforts to address the hazards of farming by following safe standard operating procedures and pursuing effective farm safety education and training.

Self-employed farm operators and their family members, as well as hired workers, manage and sustain our country's farm production operations. This healthy and productive workforce is critical to ensuring the long-term sustainability and success of family farms, ranches, and overall rural prosperity. This week, let us resolve to integrate safe practices and technologies into our agricultural production systems. Together, we can continue producing reliable food sources for a growing global market and population in a manner that keeps our farmers, ranchers, and foresters safe and healthy.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 16 through September 22, 2018, as National Farm Safety and Health Week. I call upon the people of the United States, including America's farmers and ranchers and agriculture-related institutions, organizations, and businesses to reaffirm their dedication to farm safety and health. I also urge all Americans to honor our agricultural heritage and to express their appreciation and gratitude to our farmers, ranchers, and foresters for their important contributions and tireless service to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



[FR Doc. 2018–20469
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